

***United States v. City of Newark, et al.,
Civil Action No. 16-1731 (MCA) (MAH)***

CONSENT DECREE

Independent Monitor - Sixth Quarterly Report

**Peter C. Harvey
Independent Monitor
January 16, 2019**



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SIXTH QUARTERLY REPORT
(April 1, 2018 to June 30, 2018)

I. INTRODUCTION

This Report is the Independent Monitor's Sixth Quarterly Report, which comments on the City of Newark (the "City") and Newark Police Division's ("NPD") progress in implementing Consent Decree reforms during the period from April 1, 2018 to June 30, 2018.¹ (**Appendix A** provides a list of this quarter's key Consent Decree events. **Appendix B** is a Compliance Chart, which assesses NPD's progress with meeting Consent Decree and Second-Year Monitoring Plan² deadlines.)

This Report follows the October 12, 2018 filing of the Independent Monitor's Second-Year Reassessment, required by Paragraph 182 of the Consent Decree. The Reassessment comments upon, among other things, (1) the City's and NPD's greatest achievements, (2) the Monitoring Team's greatest concerns, (3) recommendations for achieving and sustaining police reforms, and (4) suggested amendments to the Consent Decree. The Monitor incorporates the observations set forth in the Second-Year Reassessment here by reference. The document can be found on the Independent Monitor's website:

https://www.newarkpdmmonitor.com/wp-content/uploads/2018/10/Second-Year-Reassessment_10.12.18.pdf.

¹ For a more detailed introduction to the Independent Monitoring Team, the Consent Decree, and the Parties to the Consent Decree, please see the Monitoring Team's website: <https://www.newarkpdmmonitor.com/>.

² The Second-Year Monitoring Plan, covering the time period from February 17, 2018 through February 16, 2019, was filed with the Court on May 10, 2018. The Plan provides anticipated deadlines for tasks that were not accomplished by their original deadlines or tasks that were not included in the Consent Decree or First-Year Monitoring Plan.

II. EXECUTIVE SUMMARY OF SIXTH QUARTER'S ACTIVITIES (APRIL 1, 2018 – JUNE 30, 2018)³

During this reporting period, NPD continued to make progress on drafting Consent Decree-required policies. This work included exchanging drafts of outstanding policies with the United States Department of Justice (“DOJ”) and the Monitoring Team, hosting several open community forums to solicit community comment on draft policies, and seeking input from the Civilian Complaint Review Board (“CCRB”). NPD must continue its efforts to implement modern, constitutional policing and ensure that its positive momentum does not diminish as NPD transitions from policy drafting to the training of NPD personnel on the newly drafted and revised policies. The following chart notes the status of each Consent Decree and Consent Decree-related policy:

Subject	Consent Decree Provision	Status
Bias-Free Policing	Paragraph 5	Adopted on September 19, 2017.
Use of Force	Paragraphs 66-67	Approved on September 29, 2017.
Body Worn Cameras	Paragraph 104	Adopted on June 5, 2018.
In-Car Cameras	Paragraph 104	Adopted on June 5, 2018.
Firearms and Other Weapons	Paragraphs 66-67	Approved on March 16, 2018.
Arrests With or Without an Arrest Warrant (“Arrest”)	Paragraph 5; Section VI	Approved on September 20, 2018.
Search With or Without a Search Warrant (“Search”)	Paragraph 5; Section VI	Approved on September 20, 2018.
Consensual Contacts and Investigatory Stops (“Stop”)	Paragraph 5; Section VI	Approved on September 20, 2018.
Use of Force Reporting, Investigation and Review	Paragraphs 66-67	Approved on March 16, 2018
Internal Affairs: Complaint Intake & Investigation Process	Section XI	Approved on July 6, 2018. Undergoing community review.

³ Unless otherwise stated, the City’s and NPD’s progress with respect to Consent Decree tasks, as described in this Quarterly Report, reflects developments as of June 30, 2018.

Subject	Consent Decree Provision	Status
Property and Evidence Division/Property and Evidence Management	Paragraph 110	Approved on September 21, 2018.
Internal Affairs: Disciplinary Process and Matrix	Section XIII	Approved on September 21, 2018. Undergoing community review.
Community Policing	Section V	Approved on July 16, 2018. Undergoing community review.
LGBTQ Community & Police Interactions ⁴	Not Required	In development. ⁵
First Amendment Right to Observe, Object to, and Record Police Activity ⁶	Not Required	Undergoing Community review.

The key highlights from this reporting period reflect NPD's significant improvements in building a dialogue with the community it serves, and both NPD's and the Independent Monitoring Team's work in the internal affairs area. With regard to Internal Affairs (Office of Professional Standards), during this period, the Monitoring Team completed its review and analysis of NPD's case files, and offers several recommendations to NPD that will improve its internal affairs investigative processes, and continue its important progress in this area that began with NPD's revisions to its Internal Affairs: Complaint Intake policy.

⁴ After review, the Monitoring Team suggested that this policy be renamed because it primarily concerns interactions with transgender members of the community. Protections for members of the LGBTQIA community are addressed in the Bias-Free Policing policy.

⁵ Although the Consent Decree requires NPD to "operate without bias based on any demographic category," *see* Consent Decree § VII, it does not require a standalone policy to address the LGBTQIA community. To help institutionalize its practices, NPD decided to draft a policy dedicated to its stop, search, and arrest of these community members.

⁶ The Consent Decree requires NPD to respect the public's First Amendment rights and prohibits officers from taking certain actions to discourage the exercise of these rights. Consent Decree ¶¶ 55-62. It does not expressly require NPD to create standalone policy to this end, but NPD wisely decided to create such a policy to help institutionalize best practices.

III. DETAILED STATUS UPDATE

A. TRANSITIONING TO COMMUNITY-ORIENTED POLICING

One of the Consent Decree’s foundational requirements is that NPD transitions to a community-oriented, service-based policing model. In practice, this deployment strategy means “NPD will engage constructively with the community to promote and strengthen partnerships and to achieve collaborative, ethical, and bias-free policing,” as well as “integrate concepts of community and problem oriented policing into its management . . . resource deployment, tactics, and accountability systems to increase cooperation and trust between it and the community.” (Consent Decree § V.) The Consent Decree’s requirements facilitate this transition. For example, the City and NPD must:

- Provide eight hours of “structured in-service training on community policing” (§ 14);
- “[A]ssess and revise its staffing allocation and personnel deployment to support community policing and problem-solving initiatives” (§ 15);
- Create a civilian entity to oversee various aspects of NPD’s practices—which it did *via* the Civilian Complaint Review Board (§ 13); and
- Self-report community engagement activities, and make these reports available to the public (§§ 18, 20).

Further to this end, though not required by the Consent Decree, the Parties adopted a community review protocol whereby NPD seeks community comment on its draft policies and training materials *via* forums, comments *via* the Internet, and small group meetings. The protocol has started to shift the community’s role from concerned observers to active participants in the Consent Decree process and NPD’s reforms.

During this reporting period, NPD made inroads in communities that, based upon comments made by community members at public meetings, historically have been skeptical of

the Division. NPD's improvement in this area is attributable to increasingly regular and positive interactions between NPD—in particular, NPD's Consent Decree Planning Unit ("CDPU")—and the Newark community concerning the Consent Decree process, NPD's nascent self-reporting of community engagement activities, and transparency about the policymaking process. The Monitoring Team is heartened by NPD's progress, and looks forward to NPD building upon it in the coming years.

1. Positive Development in Engaging the Newark Community in the Policy Development Process

During this reporting period, NPD hosted a number of policy forums where it presented draft Consent Decree policies to community members for review, discussion and comment. At these forums, (i) a member of NPD's CDPU introduced the policy, (ii) panelists from NPD, the Monitoring Team, community activists, and other municipal or community organizations evaluated the policy's strengths and weaknesses, and (iii) community members provided oral and written comments to NPD. The New Jersey Institute for Social Justice ("NJISJ"), a member of the Monitoring Team, provided facilitators to lead discussions between officers and community members at each forum. Community members also had the opportunity to provide online comments *via* the Monitoring Team's website or the NPD CDPU's website.⁷ After each forum, NPD and the Monitoring Team reviewed community comments. NPD revised its policies based on community comment where appropriate, and sent revised drafts to DOJ and the Monitoring Team for final approval. These community meetings ran smoothly and effectively, reflecting the CDPU's increased capacity to plan these events and comfort in engaging in productive conversations with community members. Indeed, community members actively engaged with NPD officers at each meeting, leading to extended conversations about

⁷ <https://www.npdconsentdecree.org/leave-feedback>.

NPD’s practices and the prospects for reform. Below is a chart listing the policy forums held this quarter.

Policy Forums			
<u>Policy</u>	<u>Date</u>	<u>Location</u>	<u>Approximate Community Member Attendance</u>
Stop	April 25, 2018	Jehovah-Jireh Praise & Worship Church Center	20
Search	May 2, 2018	Waterfront Sports, Arts & Entertainment Center	20
Arrest	May 9, 2018	Sport Club Português	27
City-wide forum on Community-Oriented Policing	April 4, 2018	Jehovah Jireh Praise and Worship Church Center	N/A
LGTBQIA	May 21, 2018	23 Branford Place	N/A

NPD has nearly completed the policy drafting and revision process and advanced further into the training development and administration aspect of the Consent Decree process, where community engagement efforts, including holding community forums, will remain important. As NPD continues to make community forums a staple of the Consent Decree and community engagement process, the Monitoring Team recommends that NPD provide more advanced notice of events to the community. At times, some community members have approached the Monitoring Team asking team members to provide additional advanced publicity for NPD-hosted forms to “spread the word” more broadly. To address this concern, the Monitoring Team suggests that, going forward, NPD provide approximately 30 days advance notice of public meetings. Additionally, NPD should employ a variety of methods of notice—such as calls, website postings, press releases, social media, newspapers, emails, Community Service Officers, etc.—to disseminate information about the policies and forums. NPD also

should provide answers on its website to any community questions left unanswered at the forums; NPD has not consistently engaged in this practice.

2. Civilian Oversight

Paragraph 13 of the Consent Decree requires the City to implement and maintain a civilian oversight entity to review internal investigations, monitor trends in complaints, and review and recommend changes to NPD's policies or procedures. This responsibility rests with the City, not NPD.

The CCRB's ability to participate in the Consent Decree process was initially limited by orders issued by the New Jersey Superior Court arising from litigation initiated by the Fraternal Order of Police ("FOP"). The court's order was modified in March 2018, at which point the CCRB obtained full legal authority to fulfill all of the requirements of Paragraph 13 of the Consent Decree.

To date, the CCRB has reviewed and provided comments on six of NPD's draft policies: (1) Use of Force, (2) Bias-Free Policing, (3) Stops, (4) Searches, (5) Arrests, and (6) Community Engagement. However, the CCRB's comments have been, at times, significantly delayed, making it difficult for NPD to both meet Consent Decree deadlines and ensuring that the CCRB has had an opportunity to meaningfully participate in the reform process. For example, although NPD provided drafts of its Stop, Search, and Arrest policies to the CCRB in April 2018, the CCRB did offer its comments to all of the policies until early September.

The CCRB is developing its internal processes for reviewing NPD's draft policies and training materials. It is unclear to the Monitor what assistance, if any, the City is providing to the CCRB to help it organize itself and conduct the review function contemplated by Paragraph 13. The Monitoring Team encourages the CCRB to improve its response time, and

more actively participate in the Consent Decree process. The City will need to explore whether the CCRB needs additional resources and support from the City to meet this goal.

3. Self-Reported Community Engagement

Consent Decree Paragraph 17 requires NPD to “implement mechanisms to measure the breadth, extent, and effectiveness of community partnerships and problem-solving strategies, including officer outreach, particularly outreach to youth.” Paragraph 18 requires NPD to prepare “quarterly reports on its community policing efforts,” and Paragraph 19 requires NPD and the City to “implement practices to seek and respond to input from the community about this Agreement’s implementation.” Pursuant to Paragraph 20, all of these studies and reports must be made publicly available, and posted on NPD and City websites.

Since the last reporting period, NPD has made meaningful progress in addressing these requirements. NPD created a Consent Decree website that includes the following:

(i) comment forms, (ii) all draft and completed policies to date, (iii) an events calendar, (iv) Community Service Officer contact information, and (v) other Consent-Decree related reports.

The Consent Decree website is also accessible from NPD’s homepage.⁸ This user-friendly website improves the community’s access to NPD. NPD’s CDPU also has begun to release quarterly community engagement reports, which outline various events NPD held during the quarter, goals, and follow-up steps.

4. NPD’s Staffing Assessment and Modified Deployment Strategy

As the Independent Monitor noted in the Second-Year Reassessment filed on October 12, 2018, Consent Decree Paragraph 15 requires that, by July 9, 2017, NPD must assess

⁸ <https://npd.newarkpublicsafety.org/>

and revise its officer staffing assignments to support its transition towards community-oriented policing and problem-solving initiatives. NPD did not meet this deadline.

On September 12, 2018, NPD completed its assessment, well after the close of this reporting period. This staffing analysis is one of two steps in the process contemplated by Consent Decree Paragraph 15 as it describes both the current size of NPD's force and where those officers are currently deployed. Step two of the process requires NPD to determine whether, or not, it will make changes to its existing deployment of officers and, if so, how it will deploy its officers in the future to support community policing and problem-solving initiatives.

NPD has not made a plan to revise its staffing assignments or deployments.⁹ NPD must do so promptly, and the Monitor recommends that it develop a deployment strategy promptly. The Monitor will continue to report on developments in this area.¹⁰

B. EXAMINATION OF NPD'S INTERNAL AFFAIRS/OFFICE OF PROFESSIONAL STANDARDS UNIT

1. NPD's Improvements In Internal Affairs/OPS Since DOJ's 2014 Report and the Implementation of the Consent Decree

NPD has made some significant improvements with regard to its Internal Affairs/Office of Professional Standards unit since DOJ's July 22, 2014 report, the filing of the Consent Decree in March 2016, and the Monitor's review of OPS investigations that were conducted and closed by NPD in 2015 and 2016. In most instances, the OPS investigative files that were reviewed as part of this Report were completed before the implementation of the Consent Decree. That case review will be discussed in detail below. *First*, NPD has nearly

⁹ On November 29, after the close of the reporting period, members of the Monitoring Team met with members of NPD's CDPU to discuss NPD's staffing plan. The Monitoring Team will report on this meeting in its next Quarterly Report.

¹⁰ In April 2018, the NPD opened a new, fully staffed police precinct in the Vailsburg section of the City, in response to community complaints of a lack of officers dedicated to their community. For the first time in over 100 years, the Sixth Precinct provides services dedicated to the Vailsburg community.

finalized revised *draft* policies related to its complaint intake and investigations, and its disciplinary processes, including a revised Disciplinary Matrix. NPD's revised policies address some of the deficiencies noted in DOJ's report and the Monitoring Team's review of case files, including: (a) abandoning the practice of permitting officers who are the subject of an investigation to submit *written* statements in lieu of an *in-person interview* and (b) clarifying and specifying what conduct constitutes "Neglect of Duty" and what conduct should be chronicled under a more specific category. These topics also will be explained in greater detail below.

Second, NPD has recently shown a willingness to impose discipline on officers found to have committed misconduct. As the Independent Monitor reported in the Fourth Quarterly Report, during the period from October 1, 2017 to December 31, 2017, NPD *terminated* 14 officers for various reasons, including "official inefficiency/incompetency," "criminal law" violations, "intoxication," "acts of insubordination," and "association with criminal." (See Independent Monitor's Fourth Quarterly Report, dated May 4, 2018, Section III.I.3.) During the same period, NPD issued 26 temporary suspensions and 10 indefinite suspensions in response to officer misconduct. NPD's disciplinary action during the period from October 2017 through December 2017 is notable.

As mentioned in the Independent Monitor's Second-Year Reassessment, since DOJ's 2014 investigation, the City and NPD have made improvements to the services Newark offers victims of domestic violence. For example, (a) the City's Shani Baraka Women's Resource Center, which opened in May 2017, offers women facing domestic violence or abuse and their families counseling, referrals, emergency shelter, education and training, and mental health treatment; (b) on July 6, 2017, the Public Safety Director issued General Order No. 05-01, which reinstituted the Domestic Violence Response Team, a team of trained civilian volunteers

who can assist survivors of domestic violence by providing information, resources, and referrals, and (c) NPD currently assigns a detective to the Essex County Family Justice Center to help coordinate services for survivors.

The Monitoring Team shared a draft of this Report with the Parties in advance of filing it with the Court. Before the Monitoring Team filed this Report, NPD implemented some of the Monitoring Team's recommendations. For example, NPD has agreed to abandon its practice of permitting officers who are the subject of an investigation to submit written statements in lieu of an in-person interview. Accordingly, the Monitoring Team kept its original findings in the report, but, in some instances, removed some of its recommendations.

2. Monitor's Review of Internal Affairs/OPS Investigations

During this reporting period, the Monitoring Team completed an evaluation of a sample of NPD Internal Affairs case files for the years 2015 and 2016—reviewing completed, closed investigations. This review resulted from DOJ's findings concerning the many deficiencies in NPD's Internal Affairs Unit, discussed in detail in DOJ's July 22, 2014 report and summarized below. This evaluation was not an audit as contemplated by the Consent Decree. (*See* ¶ 174(e) and 174(f)). Rather, this review was designed to understand IA/OPS practices during this time period so that the Monitoring Team could measure the progress of this unit's investigative and enforcement work. Specifically, the purpose of the Monitoring Team's review and analysis of NPD's internal affairs files was to: (i) gain insight into how NPD's OPS investigated and resolved complaints against officers (*see* Consent Decree ¶¶ 112-149); (ii) determine what actions NPD needs to take to remedy deficiencies within the Internal Affairs/OPS Unit; and (iii) frame the issues that the Monitoring Team will continue to examine.

This section will discuss (i) DOJ's findings, (ii) internal affairs requirements under the Consent Decree, (iii) the Monitoring Team's review of internal affairs cases, and (iv)

NPD's draft Internal Affairs policy, and (v) the need for institutional change within NPD's internal affairs unit.

3. DOJ's July 2014 Report on NPD's Internal Affairs

On July 22, 2014, DOJ issued a report concluding that NPD officers engaged in a pattern or practice of unconstitutional policing, including a determination that inadequate misconduct investigations of NPD officers had contributed to the pattern of constitutional violations.¹¹ The DOJ report identified several "Investigative Deficiencies" within NPD's Internal Affairs unit. Specifically, the DOJ report found that NPD's Internal Affairs Unit exhibited: (i) a failure to collect evidence from complainants, (ii) a failure to objectively assess evidence from officers, complainants, and witnesses, (iii) unequal treatment of officer and complainant history, and (iv) a pattern of discouraging complainants through *Miranda* warnings.¹² As an example of NPD's deficient complaint intake process, the report described NPD investigators' routine administration of *Miranda* warnings to complainants, despite New Jersey Attorney General's Internal Affairs Guidelines and United States Supreme Court case law explaining that *Miranda* warnings are not required in non-custodial, voluntary interactions with civilians. The report noted that the practice of providing *Miranda* warnings to complainants was not only unnecessary, but could intimidate and discourage victims and witnesses from participating in the complaint process.

The DOJ Report also detailed issues involving gender-biased policing, especially with respect to criminal investigations of sexual assault.¹³ DOJ asserted that the issues identified in the DOJ report were not isolated incidents. Rather, NPD's deficiencies related to gender-

¹¹ See Investigation of the Newark Police Department, United States Department of Justice, Civil Rights Division and United States Attorney's Office, District of New Jersey, dated July 22, 2014, at p. 38-41.

¹² See *id.* at 38-41.

¹³ See *id.* at 46-47.

biased policing were “structural,” and “embedded in procedural problems” with the way the NPD had handled certain investigations.¹⁴

As detailed below, the Monitoring Team’s review of case files for the years of 2015 and 2016 revealed similar deficiencies in Internal Affairs investigations involving survivors of domestic violence.

4. Internal Affairs Requirements under Consent Decree § XI

The March 30, 2016 Consent Decree entered into between DOJ, NPD and the City of Newark sets forth specific tasks to be performed by NPD that are designed to correct the unconstitutional practices described in DOJ’s report, and transform NPD into a modern police force. Regarding NPD’s Internal Affairs Unit, known as the Office of Professional Standards (“OPS”), the Parties agreed to a series of reforms related to Internal Affairs Complaint Intake and Investigations. (*See* Consent Decree ¶¶ 112-149.) Section XI of the Consent Decree provides that “NPD and the City will establish policies and procedures directing that all allegations of officer misconduct are received and fully and fairly investigated . . . and that all officers who commit misconduct are held accountable pursuant to a disciplinary system that is fair and consistent.” This mandate informs the Monitoring Team’s review of NPD’s Internal Affairs case files detailed below.

Subsequent to the filing of the Consent Decree, the Public Safety Director assigned several new detectives to Internal Affairs/OPS consistent with Paragraph 144 of the Consent Decree. Additionally, the Monitor arranged for members of the New Jersey State Police (“NJSP”) to provide preliminary training to the new Internal Affairs/OPS detectives regarding

¹⁴ *Id.* at 46.

investigating complaints made to internal affairs. The Monitoring Team reported on this training via the Independent Monitor's Third Quarterly Report.¹⁵

5. Overview of Review Process for Internal Affairs/OPS Case Files

During this reporting period, the Monitoring Team paid considerable attention to Internal Affairs, completing its review of a sample of NPD's completed internal affairs case files from 2015 through 2016, shortly after the period ended. As described in prior quarterly reports,¹⁶ the Monitoring Team reviewed OPS and precinct-level investigations of personnel complaints. This review does **not** satisfy NPD's independent obligation to conduct its **own** self-assessment. (See Consent Decree ¶ 117). Furthermore, the review focused on OPS' handling of domestic violence complaints against NPD officers and complaints with respect to officers' response to domestic violence calls. The review is not an evaluation of the work done by NPD's Special Victims Section, which is the division charged with investigating citizen complaints of, among other things, sexual assault, domestic violence, and missing persons.

The purpose of the review is to analyze the quality and consistency of NPD's Internal Affairs investigations of alleged NPD officer misconduct and the general operation of the Internal Affairs/OPS Unit during the 2015-2016 period covered by the review. The Monitor sought to ensure that the case review was conducted using sound methodology so that the results would be accurate and the conclusions reached would be fair. To that end, the Monitoring Team obtained guidance from Rutgers University-Newark regarding a file review process that selected a statistically significant sample size of cases for review. This section will discuss how the

¹⁵ The Independent Monitor's Third Quarterly Report can be found on the Monitoring Team's website: <https://www.newarkpdmonitor.com/>.

¹⁶ See Independent Monitor's Third Quarterly Report, Section III.F.3.; Independent Monitor's Fourth Quarterly Report, Section III.H.2; Independent Monitor's Fifth Quarterly Report, Section III.F.2.

Monitoring Team conducted its analysis of the Internal Affairs Unit/OPS, and what the Monitoring Team has learned as a result of this review.

The points outlined in this review represent areas for improvement for NPD.

Although the Monitoring Team found many of the same concerns identified during the DOJ's past investigation, it would like to note that NPD was receptive to recommended changes. NPD cooperated fully and provided the Monitoring Team with the requested case materials and audio recordings in a timely manner. Similarly, the CDPU was particularly receptive to recommended changes in NPD's complaint intake and investigations policy, and recommended development of a first-ever Standard Operating Procedures manual for conducting personnel investigations. The City has reported that as of the filing of this Quarterly Report, the manual is under review by DOJ. However, the Monitoring Team has not been provided with a draft of the manual.

a. Scope and Methodology of the Case File Review

In early 2017, the Monitoring Team began working to define the scope of its review by collecting and reviewing data obtained from OPS and from publicly available sources. The Monitoring Team considered numerous ways to undertake the review in a manner that would serve the Monitor's stated purposes without being unnecessarily duplicative of DOJ's analysis in its 2014 report. Also, the Monitoring Team envisioned a more comprehensive review than those previously undertaken, and its work was informed by DOJ's work in its pattern or practice investigation of NPD and by the 2010 American Civil Liberties Union ("ACLU") analysis that spurred DOJ's investigation. Although the ACLU did not have access to completed internal investigations, its study included a review of roughly 100 civil actions, tort claims, and complaints from various sources (adjudicated between January 2008 and September 2010) involving allegations of civil rights and criminal violations by NPD officers. The ACLU study

revealed NPD's ineffective processes for identifying and deterring such conduct as well as deficiencies in receiving, handling, and adjudicating citizen complaints.¹⁷

The ACLU's 2010 conclusions were validated and buttressed by DOJ's 2014 investigation. DOJ's examination of completed OPS investigations found inadequacies in several areas and also concluded that these deficiencies contributed to NPD's pattern of constitutional violations.¹⁸ In short, deficiencies in NPD's internal investigations processes are well-documented.

Since the time of DOJ's 2014 investigation, NPD reported that it had investigated nearly 3,000 internal and external complaints of misconduct against its members.¹⁹ For the Monitoring Team, reviewing the entire population of those cases would be cost prohibitive. Further, a review of that scale would do little, if anything, to address the purposes of the review. As such, the Monitoring Team narrowed its focus to Internal Affairs investigations conducted by NPD in the two most recent calendar years, 2015 and 2016. During this time period NPD initiated nearly 1,300 total complaint investigations.²⁰

¹⁷ In 2011, a federal court found that the NPD condoned police officers' use of excessive force by failing to adequately investigate civilian complaints. *See Garcia v. City of Newark*, No. 08-1725 (SRC), 2011 WL 689616 at *4 (D.N.J. Feb. 16, 2011).

¹⁸ DOJ's review included an examination of all Excessive Force, Unlawful Arrest, and Theft investigations completed between January 2010 and June 2011 as well as a representative sample of OPS investigations of officer-involved shootings from that same period. Among its findings, DOJ's investigation revealed that (i) OPS had only sustained **one** misconduct complaint of excessive force over the five years from 2007 through 2012; (ii) allegations of rampant theft by members of the Central Narcotics Unit without systems in place to transfer officers with multiple complaints; and (ii) inconsistent classification and investigative procedures that resulted in, among other things, failures to collect and objectively assess evidence.

¹⁹ Complaints are generally categorized by source. External complaints are those initiated by those unaffiliated with NPD while internal complaint investigations stem from allegations of misconduct brought by and against NPD employees (sworn and civilian).

²⁰ Not all of these investigations were completed at the time of our review. The Monitoring Team limited its review to completed investigations.

In 2015 and 2016, the largest concentration of NPD's complaint investigations were categorized as *Demeanor (Unprofessional Language/Conduct)* or *Neglect of Duty*, totaling nearly 500 of the approximately 1,300 cases initiated during that period. Rather than select, at random, a sample of cases in the *Neglect of Duty* category for review, the Monitoring Team tailored the review to those cases that might provide additional insight into NPD's Internal Affairs investigations of complaints on officers' response to incidents of domestic violence and disputes.²¹

Using NPD's IA Pro software, OPS furnished the Monitoring Team with narrative summaries of *every* complaint investigation initiated in 2015 and 2016. These summaries, generated by OPS when an investigation is opened, are generally a one or two paragraph synopsis of the misconduct alleged. The narrative summaries revealed a significant number of complaints arising from NPD officers' responses to domestic disputes and other related calls for service. (See chart below). Most of these were categorized as "*Neglect of Duty*" or "*Conduct*."²² The Monitoring Team identified and requested **all** of these cases for review. The Monitoring Team also requested a number of cases where its review of the narrative summaries revealed allegations of (a) sexual harassment or assault, (b) discrimination on the basis of race, gender, or sexual orientation, or (c) potential procedural deficiencies that the Team thought warranted

²¹ The Monitoring Team obtained the guidance of Dr. Todd Clear of Rutgers University-Newark to identify a statistically representative sample of cases. Dr. Clear recommended that for those categories in which the total number of cases was less than 20, the Monitoring Team review the entire population (NPD Officer as Domestic Violence Suspect, NPD Officer as Domestic Violence Victim, and Firearm Discharge). For some categories the representative sample was 20%. Because of the large number of Neglect of Duty and Demeanor cases, Dr. Clear identified 10% as a sufficient sample of that category of cases.

²² A few of these cases were categorized as *Disobedience to Orders* while others were classified under the generic *Conduct* moniker.

further examination such as the under-classification of misconduct described in this Report.²³ In particular, one complaint summary described, in graphic terms, the alleged sexual assault of a minor child by an NPD officer. Remarkably, OPS classified the misconduct in IAPro as “Demeanor.” The Monitoring Team requested, but did not receive, this particular complaint investigation as it was still pending at the time of the review. Nonetheless, it appears that the category used to classify the complaint did not reflect the seriousness of the alleged conduct.

Using the narrative summaries, the Monitoring Team identified for review: (1) **all** investigations of Firearm Discharges (non-accidental and not involving animals), (2) a representative sample of cases such as *Excessive Force* and allegations of *Criminal Violations (including Theft)* against NPD employees,²⁴ (3) **all** investigations related to Domestic Violence (whether an NPD employee was the Victim (“Survivor”) or Alleged Perpetrator (“Subject”) of such allegations, and (4) an additional subset of cases that the Monitoring Team characterized as traditional “bread and butter” investigations of so-called minor misconduct complaints.²⁵

²³ The issue of under-classification is discussed in Section III.B.3.c.

²⁴ With guidance from Dr. Todd Clear, the Monitoring Team identified a statistically significant representative sample of 20% of cases from those categories.

²⁵ These “bread and butter” investigations usually stem from an officer’s alleged rude and discourteous behavior (Demeanor) or where his/her response to a particular incident fell short of NPD’s expectations or standards (Neglect of Duty). At NPD, these complaints are investigated by OPS or at the precinct or command level.

The following Table illustrates the category of cases requested for review, the number of cases requested from Internal Affairs/OPS by the Monitoring Team and the number of cases actually received for review by the Monitoring Team:

Category	Total Number of 2015 & 2016 Complaints	Requested for Review By Monitoring Team	Received From OPS ²⁶
Criminal Law Violation (Including Theft)	59	15	13
Domestic Violence (Suspect)	19	19	18
Domestic Violence (Victim)	8	8	8
Excessive Force	38	13	9
Firearm Discharge (Non-Accidental w/no Animal Involved)	15	13	10
Response to Domestic Disputes	52	52	50
Other Related or Significant Cases ²⁷	N/A	41	36
TOTAL		162	144

Each Internal Affairs/OPS case file is unique, however, a completed casefile generally includes the following information: (1) an investigative disposition summary with a synopsis of the allegations, (2) witness statements, (3) a justification for OPS' finding, (4) an index listing the entirety of the case file, (5) the I.O.P. (Investigation of Personnel) form that is

²⁶ The case files that were requested by the Monitoring Team but not received from NPD consist of files that could not be located by NPD or cases that were not yet completed. The Monitoring Team, however, was able to review a statistically significant sample of cases, even with the few missing case files.

²⁷ In some instances, OPS initiated so-called collateral or "spin-off" cases where the original investigation revealed other alleged misconduct against the subject officer or others. The Monitoring Team requested these cases. As described above, the Monitoring Team also requested a number of cases in which the narrative summary revealed conduct like sexual assault or racial/gender discrimination that warranted additional examination.

filled out at intake, (6) log/tour sheets, (7) master recordings of 911 calls, radio transmissions, and witness interviews (if relevant to the investigation), (8) contact/disposition letters for complainant and the subject officer, and (9) video/photographs (if available). NPD downloaded onto a disc from IA Pro (NPD's electronic IA database), internal affairs case files requested by the Monitoring Team and provided the information to the Monitoring Team. Audio recordings of witness interviews, radio transmissions, and other materials were copied to DVDs and retrieved from NPD by the Monitoring Team. Not every investigation included audio recordings. The Monitoring Team reviewed the entirety of the case files it received from NPD.

To guide the Monitoring Team's review and to ensure consistency between reviewers and across investigative subject matter, the Monitoring Team developed criteria for evaluating investigations. The criteria were incorporated into a survey instrument. The survey instrument captured relevant *statistical data*, such as (a) complaint intake and investigation completion dates, (b) subject officer and investigator names, and (c) complainant demographic information. The survey instrument also captured *qualitative components* designed to evaluate (d) witness and officer interviews, (e) investigative zeal, and (f) application of the preponderance of the evidence standard. The Monitoring Team used information gleaned from the instrument as well as observations unique to the particular cases that each team member reviewed to prepare this report.

The Monitoring Team completed its review and, as noted below, will use its observations to inform specific recommendations to NPD's Internal Affairs policy, the forthcoming Internal Affairs/OPS procedural manual, training, and future audits. The Monitoring Team's observations and recommendations include, but are not limited to, the following:

b. Complaint Intake Procedures

The Consent Decree requires NPD to avoid any policy or practice that discourages civilians from filing complaints. (*See* Consent Decree ¶ 115.) The OPS review identified instances where officers engaged in conduct that appeared to discourage civilians from filing a complaint. It was not clear from the paper record whether the civilian was intentionally discouraged from filing complaints or whether the intake officer's demeanor was unintentionally discouraging. For example, one case file contained a handwritten note from a complainant alleging that the intake officer's rudeness prompted her to request that a Supervisor take the complaint. Without additional details, the Monitoring Team could not determine whether the intake officer's rudeness was designed to discourage or delay the complaint process. In any event, an allegation that an intake officer exhibited rudeness should have generated a *separate* personnel investigation. There is no indication that OPS undertook any such action in this instance.

Based on its review of case files from 2015 through 2016 (*see* chart on page 19), the Monitoring Team noted that, the majority of complainants were walk-ins. An intake officer took the complaint orally and summarized it on an *Investigation of Personnel* form ("IOP"). From a policy perspective, the IOP is not an adequate substitute for a Civilian Complaint Form for several reasons. First, although the IOP captures pertinent background information to assist OPS in classifying and assigning investigations, it interferes with the complainant's ability to articulate for himself or herself—in his or her own words—the alleged police misconduct. Second, the IOP calls for complainants to reveal biographical data including the complainant's social security number, which can discourage complainants from filing complaints for fear that they will be subjected to background checks or arrest (especially for undocumented persons).

NPD also must develop a better method for taking a citizen complaint in the precinct. Based on the experience of subject matter experts on the Monitoring Team, the lobby of a police precinct is typically not the best place to take a citizen complaint about a police officer. The precinct lobby can be a bustling place, ill-suited for discussion of the sensitive subjects oftentimes broached in misconduct allegations. Front desk personnel can be incredibly busy during peak hours, and cannot be expected to devote significant time or attention to providing an open, iterative and accessible complaint intake process. Furthermore, requiring complainants to wait in the lobby of a police precinct to file a complaint may run the risk of an encounter between the complainant and the officer alleged to have committed misconduct.

The Monitoring Team is pleased that the revised *draft* NPD policy regarding *Complaint Intake and Investigation* – which has not been finalized – contains several provisions designed to make the complaint process more accessible, including the deployment of “drop boxes” that allow complainants to complete complaint form at their leisure and preferred location, then submit the forms at police precincts and other municipal buildings.

c. Complaint Classification by Internal Affairs/OPS

Regardless of how a complaint is received, its substance is memorialized in an IOP, and forwarded to OPS for classification and assignment. For minor misconduct complaints, OPS employs broad category headings (*i.e.*, *Conduct*, *Demeanor*, *Neglect of Duty*) to classify violations, rather than citing to a specific General Order, policy, rule, or regulation that the subject officer may have violated.

The Monitoring Team reviewed the narrative summaries of **all** complaints filed against NPD officers in 2015 and 2016. The Monitoring Team observed that multiple offenses of misconduct were encompassed within such broad categories, rendering these classifications largely meaningless. One particularly glaring overuse of these classifications was in the *Neglect*

of Duty category. In some instances, that category fairly captures the alleged or confirmed misconduct. In other circumstances, the *Neglect of Duty* category mischaracterizes the seriousness of the conduct. Neglect of Duty covers a very broad range of conduct, and use of this charge can conceal or minimize the seriousness of the misconduct allegation. In 2015, 139 of the 664 complaints filed were classified as *Neglect of Duty* (21%). In 2016, 123 of the 725 complaints filed were so classified (17%).

The Monitoring Team concluded that some of these *Neglect of Duty* classifications concealed the true nature of misconduct. For instance, in one *Neglect of Duty* case, two officers were alleged to have stayed in their patrol car instead of entering the complainant's building during a *Domestic Assault In Progress* call. When the complainant called 911 (a second time) to ascertain the officers' whereabouts, the officers told the 911 dispatcher that they were not able to gain access to the building, and that the complainant needed to come downstairs and open the main door. During the subsequent complaint investigation, the officers, who were *not* interviewed, prepared written submissions containing similar assertions. The investigation revealed the truth of the matter: the door to the building was *not* locked as the lock on the main door of complainant's building was inoperable at the time of the assault and 911 call. Hence, the door was open and the officers could have entered the building at any time. More importantly, the officers had stated in their written submissions that the door was locked. These statements were false since the investigation revealed that the door was *not* secured.

The investigation rightfully yielded *Sustained* findings to the original *Neglect of Duty* charge, as well as violations of NPD policy prohibiting officers from making false statements over the radio and in written reports. However, because the complaint was classified as *Neglect of Duty* at intake, the investigation is publicly reported as a *Sustained Neglect of Duty*

case when, in fact, two officers were found to have lied in their statements to Internal Affairs/OPS. The public report does not reflect that the officers were found to have violated NPD policy prohibiting officers from making false statements. NPD must investigate misconduct it discovers after the initial allegation in order to comply with the Consent Decree.²⁸ NPD also should ensure that its public reports accurately reflect the findings of those investigations.

Other examples of egregious misclassifications by Internal Affairs/OPS include the following:

- A woman complained that a plainclothes officer had stolen drugs from her, took her into a van driven by another plainclothes officer and forced her to look for a drug dealer. Later, she alleged, the first officer threatened to deport her if she did not become an informant and set up a drug buy. These alleged acts of serious, even criminal misconduct were listed under a single unremarkable heading, “Conduct.” The alleged misconduct is more appropriately classified as “Theft,” “Kidnapping or False Imprisonment,” and “Extortion.” The complaint was “Not Sustained.”
- A man witnessing the arrest of a suspect alleged that an officer told him, “I told you to get the f**k out of here, li'l f*****t gay n*****r.” This conduct—suggesting homophobic and racist bias and rudeness—was classified merely as a “Demeanor” complaint. The misconduct alleged is more appropriately classified as “Abusive/Disparaging Language” and “Biased Conduct” (i.e. violation of then-applicable General Order 03-04, Policy on Biased Policing). The complaint was “Not Sustained.”
- An off-duty security guard alleged that an officer choked and arrested him when he briefly double-parked his car to greet his son across street. He alleged false arrest, false imprisonment, and excessive force. He also alleged that the officer tried to take his son’s cell phone away from him as he attempted to record the incident. The sole allegation attached to the file was “Excessive Force.” The allegations are more appropriately classified as “False Arrest” and “False Imprisonment.” The complaint was “Not Sustained.”

²⁸ Consent Decree Paragraph 131 states that “No investigation will be limited to the allegations that prompted it. NPD will evaluate all relevant police activity and evidence of any potential misconduct uncovered during the course of the investigation, including each use of force (i.e., not just the type of force complained about) and any stops, searches, or seizures that occurred during the incident.”

In fact, the Monitoring Team reviewed at least thirty Neglect of Duty complaints stemming from the subject officer(s) failure to take appropriate enforcement action during a call for service involving allegations of domestic abuse or family trouble. One sustained complaint involved an officer who *refused* to take a report of an alleged violation of a restraining order because, in his view, there was no probable cause to believe that there had been a violation. The investigating Supervisor determined that the subject officer's inaction was based on an incomplete reading of the restraining order's terms and recommended a *Sustained* finding.

The Monitoring Team recognizes that it is impractical, if not impossible, to precisely identify and proscribe every conceivable way that police misconduct might occur. However, to ensure that all allegations are identified, properly categorized and investigated, careful examination of misconduct complaints is critical to NPD's effort to restore public trust in internal investigations. NPD's draft Disciplinary Matrix, currently in development, is responsive to this concern as it clarifies and specifies the categories for disciplinary charges and findings, particularly, *Neglect of Duty*.

To properly review trends in complaints and misconduct findings, to promote transparency, and to maintain a fair and equitable disciplinary framework, the Monitoring Team recommends that NPD (1) carefully screen and classify complaints, both at intake and after completion and (2) update IA Pro to ensure that the most serious charges are described with sufficient specificity in public reports. Ultimately, better classification and reporting of complaints against officers will build public trust. It also will assist the CCRB in its review functions with respect to internal affairs complaints and investigations as set forth in Paragraph 13 of the Consent Decree.

d. Assignment of Complaint Investigations

The Consent Decree requires NPD to develop a protocol for assigning investigations either to the subject officer's Supervisor, the Precinct Integrity Officer, or OPS. (See Consent Decree ¶ 123.) Recent *draft* revisions to NPD's revised policy concerning *Complaint Intake and Investigations* provide some formalization of NPD's long-standing informal practice of referring low-level complaints (*i.e.*, non-serious or minor) to a precinct or unit Supervisor. For example, under the *draft* revised policy, the Commander of OPS, or his/her designee, is responsible for reviewing all completed investigations and approving or disapproving of all recommended findings. Disapproved investigations must be sent back to the investigator for revisions to correct the deficiencies. Investigators found to display consistent deficiencies and/or significant poor performance shall be re-trained by OPS, and may face disciplinary action if warranted.

In its case review, the Monitoring Team observed some instances in which investigations completed at the precinct level were sent back to the investigating Supervisor due to deficiencies. These referrals, however, were sporadic, and not part of a systematic mechanism for auditing precinct investigations for quality and thoroughness. NPD should conduct regular audits of precinct investigations to ensure completeness and quality, rather than rely on inconsistent referrals back to investigating Supervisors.

e. NPD's Communication with Complainants

For the period covered in the Monitoring Team's review, 2015 through 2016, NPD procedure required that, once an investigation was assigned, NPD would send the complainant and the subject officer a letter notifying them that the complaint was received, and identifying the Supervisor assigned to investigate it. In most cases reviewed by the Monitoring Team, this letter was sent within days of the assignment. However, the Monitoring Team

observed several instances in which the letter was sent weeks, if not months, after the complaint was filed. Failure to provide timely notice to the subject officer and complainant undermines confidence in the integrity of the process. Greater attention should be given to sending timely notifications to both the complainant and the subject officer.

The Monitoring Team also observed problematic language in the letters themselves. Specifically, the form letter sent to complainants states in pertinent part:

It is important to the investigative process that you provide accurate and complete information. It is also prohibited to knowingly furnish false information to a law enforcement authority relating to an offense or incident.

There are three notable observations about this language. *First*, the letter sent to subject officers contained no such admonition or reminder of the officer's duty of candor and honesty. It is unclear why this language was included in letters sent to complainants, but not in letters sent to officers. *Second*, the inclusion of the language in the version sent to complainants, whether intentional or not, has the impact of intimidating and dissuading people from coming forward or pursuing a complaint as it signals that they may, themselves, become the subject of an investigation. *Third*, and most importantly, this above warning confirmed one of the findings in the 2014 DOJ Report²⁹ and is prohibited by Paragraph 115(a) of the Consent Decree.³⁰ To the extent that it has not already done so, NPD should remove this language from its complainant notification letters.

²⁹ See Investigation of the Newark Police Department, United States Department of Justice, Civil Rights Division and United States Attorney's Office, District of New Jersey, dated July 22, 2014, at p. 40-41.

³⁰ "Complaint forms and information materials will not include any language that can be construed as discouraging civilians from submitting complaints, including warnings regarding potential criminal prosecution for false or untrue complaints." (Consent Decree ¶ 115(a))

Further, the form notification letters sent to either complainants or NPD officers in 2015-16 contained no estimated time of completion.³¹ Additionally, complainants were not offered assurance that, in the event of delays, the investigating officers would provide them with regular updates about the status of the investigation. Most of the minor misconduct investigations that the Monitoring Team reviewed were completed by NPD in a timely manner. However, other investigations, particularly those referred to the Essex County Prosecutor's Office for criminal review, took longer to complete.³² In some instances, OPS investigators were transferred off of an investigation in the midst of a case investigation, resulting in significant investigative delays. NPD did not update complainants on these delays, or explain the reason for them. Such a lack of communication negatively impacts the quality of investigations. It also erodes citizen confidence in the process.³³ As a result, the Monitoring Team recommends that NPD implement procedures *requiring* that complainants receive status updates every 30 to 60 days, until the investigation is completed.

Finally, there were many cases in which the date of the closure letter, which notified complainants of the investigation's completion and result, *predated* the supervisory review signatures. This appeared to be a routine practice, as the Monitoring Team observed that the closure letters were routinely drafted, signed, and dated *before* the investigator's chain of

³¹ After the end of this reporting period, NPD expressed its willingness to add an estimated time of completion to its form notification letters.

³² Investigations reviewed by the Monitoring Team ranged from 30 days to 2 years depending on the scope and/or complexity of the investigation. For example, cases that were referred to the Essex County Prosecutor's Office and investigations of domestic violence against NPD employees tended to take longer than more routine investigations.

³³ On November 20, 2018, NPD's Office of Professional Standards issued a memorandum entitled "Notification of Complaints." The memorandum states: "In cases where the investigation is suspended due to the County Prosecutor's Office involvement and/or investigations go over 30 days, the investigator shall contact the complainant and advise them of the circumstances. This shall be done every 30 days until the investigation can be closed."

command had the opportunity to review the final investigative report.³⁴ While it is unclear whether the letters were sent to the complainant before the final supervisory review, the practice of preparing, dating, and signing the letters in advance certainly presented, at a minimum, the appearance that a decision on the case was determined before the supervisory review had been completed. The Monitoring Team recommends that the closure letter be prepared *after* final supervisory review, supervisory approval of the recommendation and after the case is closed.

f. Conduct of Complaint Investigations

Our review revealed that investigators made laudable efforts to ensure that all subject officers were eventually identified, even where the allegation was lodged against an unknown officer. Similarly, investigators timely completed most of the investigations and presented organized, indexed files documenting the investigation. NPD is doing a number of tasks well, and timely completion of Internal Affairs/OPS investigations is one of them.

As discussed in further detail below, there is a clear need for improvement in the *quality* of investigations, a result that can be achieved with (1) the development of an Internal Affairs SOP Manual that sets forth clear standards for investigations and reporting and (2) *additional training* of all supervisors, integrity control officers, and OPS investigators in best practices for conducting quality internal investigations.

i. Complainant and Witness Interviews

During 2015 and 2016, NPD used a form to collect written statements from officers who are the subject of an Internal Affairs/OPS complaint. These officers were not

³⁴ In one such case, an officer was accused of false arrest, excessive force, and harassment. After ECPO notified NPD in March 2017 that it would decline to prosecute, OPS asked the subject officer in May 2017 to submit a written report. On August 7, 2017, OPS notified the complainant and subject officer of its *Not Sustained* finding. The closure letters were dated *four weeks before* OPS obtained a written report from a witness officer and nearly *six weeks before* OPS's recommended findings were approved. It is troubling that such practices continued a year into the Consent Decree.

subjected to *in-person* interviews. Instead, investigators typically afforded officers the opportunity to provide written statements, which often appeared self-serving or lacking in detail. The files generally reflected ***no*** effort by investigators to conduct any officer follow-up, even by written questions. As a consequence, there were no opportunities to explore whether officers would corroborate or deny specific allegations obtained from civilian witnesses.³⁵

In contrast, as discussed below, the Monitoring Team observed that most civilian interviews were recorded (audio) and conducted within the investigation's early stages. While this reflects sound investigative practice, additional concerns surfaced. Review of the interviews identified areas of concern such as (1) brevity and lack of thoroughness (some interviews lasted fewer than 10 minutes in length), (2) potential investigative bias (as reflected in the investigator's tone during questioning), and (3) practices that could be construed as discouraging complainants from fully participating in the process (*e.g.*, one complainant was asked if she "swore to tell the truth" while others were unnecessarily asked to disclose their Social Security numbers at the onset of interviews). (*See* Consent Decree ¶ 115). Less frequently, but no less importantly, the files reflected instances where the investigator neither offered nor provided language accommodations to interviewees with limited English proficiency. Worse, in a few cases it appeared that lack of English proficiency was used to discredit civilian witnesses. For example, during one investigation, a witness corroborated her son's claim that a subject officer threatened him with bodily harm. Because the alleged threats were in English, the investigator used the witness's request for a translator in the interview to support a finding that the witness

³⁵ When the Monitoring Team raised this issue with NPD, NPD's initial response was that Internal Affairs investigators lacked audio recorders to conduct routine interviews. However, in further discussions NPD acknowledged that recorded officer interviews are essential and stated that it would invest the resources necessary to implement this change. The Monitoring team anticipates that the forthcoming Internal Affairs SOP Manual will articulate specific standards for memorializing officer interviews.

did not understand English and, therefore, could not have heard the officer's alleged threat to her son because she did not understand English.

In another case—a separate domestic violence investigation of an NPD officer who allegedly abused his live-in girlfriend—the language barrier between the investigator and the complainant negatively impacted the investigation's quality and thoroughness. The complainant, a non-native English speaker, struggled to provide the investigator with the names and phone numbers of witnesses to the alleged abuse. The investigator failed to secure language accommodation, such as a translator, for the complainant. Instead, the investigator simply proceeded with the investigation. Following the misstep of not securing language accommodation, the investigator made several cursory and unsuccessful attempts to locate one of the witnesses months later, and noted in the investigative summary that the witnesses “would not corroborate [complainant's] recollection of the events,” despite the fact that, perhaps, the investigator did not fully understand the complainant's recollection of the events due to complainant's language barrier. The investigation resulted in a *Not Sustained* finding.³⁶

Other systemic deficiencies the Monitoring Team observed during its case reviews include:

- Investigators routinely failed to ask witnesses (1) to identify all persons with whom they had discussed the incident, and when the discussion occurred; (2) to identify any collateral sources of information (information learned from other witnesses, seen on video, or read in the papers or social media); (3) to identify anything they had already written about the incident (journal, social media, etc.); and (4) whether they were physically able to provide complete and accurate testimony (due to use of medications or other impairments).

³⁶ As further justification for the *Not Sustained* finding, the investigator noted that the victim did not pursue charges against the subject officer and that the victim, who alleged previous incidents of unreported abuse by the subject officer, did not report the abuse until the subject officer had the victim removed from the home they shared.

- In cases stemming from arrests of complainants, there was no indication that investigators attempted to contact defense counsel before interviewing complainants.
- Investigators failed to obtain complainant's consent to record the interview rather than seeking pre-interview consent and documenting any refusal in the investigative file.
- Where a tape-recorded interview was conducted, investigators did not memorialize on tape whether they, or any other officer, had spoken to the witness prior to going on the record. This practice exposed investigators to claims from witnesses that something different was said during the unrecorded portion of the interview. It also left open the opportunity for abuse by investigators (prepping the witness in "pre-interview" rehearsals or testimony-shaping).

In the Monitoring Team's view, these are simple issues that can be readily cured by the following measures: (1) use of investigative checklists, (2) pre-interview scripts, and (3) similar materials designed to guide investigators in the interview process. The pre-interview script should contain a "bill of rights," that is, language advising interviewees that NPD prohibits any form of retaliation against someone who files a complaint, or who cooperates in an investigation or disciplinary hearing. Such an exchange would take only a few minutes, yet would significantly bolster the integrity of the investigatory process, and provide protection for investigators.

ii. Interviews of Officers

The Monitoring Team could not meaningfully evaluate the quality of interviews of subject officers because there were too few examples, from the cases tagged for review, of investigations where the subject officer was interviewed. When interviews were conducted of subject officers, they were generally an opportunity for officers to read and recite a pre-prepared, written narrative. These interviews did not generally include meaningful follow-up questions. For example, in the firearm discharge investigative files that contained recorded interviews,

OPS's questioning of involved officers was completed within 5-7 minutes—well below the time expected to question officers about critical, often complex events.

Typically, the recordings provided by NPD lasted 10-12 minutes, with introductory remarks (*e.g.*, reading of *Garrity* advisement) taking several minutes. Discussion of the incident itself was consistently brief and superficial. For example:

- An officer fired at a subject running toward him, who was later found to be unarmed. Although there was much to address in the interview (including an apparent discrepancy between the number of shell casings recovered and the officer's account of his actions), OPS's questioning of the officer lasted only 6 minutes, 2 seconds.
- An NPD officer fired at a man he claimed pointed a gun at him. The man fled the scene and no weapon was recovered. OPS's interview of the officer lasted 7 minutes, 2 seconds.
- Two NPD members chased a man whose companion had been arrested with a gun. During the foot pursuit, both fired their weapons at the man, whom they claimed pointed a weapon at one of them. No handgun was found on the man, but one was located in a nearby yard. OPS's questioning of one involved member lasted 6 minutes, 42 seconds. Questioning of the second involved member lasted 5 minutes, 40 seconds.

Such brief, cursory interviews fell well short of being acceptable for incidents as serious as the use of deadly force. The relative infrequency of such recorded interviews, coupled with the brief, superficial interviews that were conducted suggests an institutional reluctance to carefully examine officer actions once the local prosecuting authority (ECPO) has declined to prosecute the involved officers. The files did not reflect *any* demand from reviewing officials either that OPS investigators conduct detailed, recorded interviews of the officers. It remains unclear whether the assigned investigative staff is properly trained to conduct thorough interviews in deadly force cases that would elicit, not only the details of the incident, but provide

sufficient information to assess officer compliance with policy, tactics, and training. The files reviewed showed that deadly force investigations require substantial improvement.

Regardless of the type of misconduct alleged, whether it was rude and discourteous language, neglect of duty, domestic violence, theft, excessive force, or firearm discharge, NPD typically used Form 1001, an administrative report, as a substitute for in-person recorded interviews of subject/witness officers. In one case, several officers were accused of stealing a laptop computer, cash, and a computer tablet from a motorist who was arrested after a traffic stop. After ECPO declined to prosecute, NPD asked the officers for written statements. In another case, an NPD officer shot a suspect in the chest following a vehicle pursuit. After a grand jury declined to indict the officer, OPS relied upon written reports from the involved officer and witness officers to recommend a *Justified* finding.

NPD should not permit officers who are the subject of an OPS investigation to sit down in a room and write out a statement on Form 1001, rather than submit to a detailed interview by trained detectives or officers. There is limited credibility to an investigation where officers have the opportunity to sit down—together or alone, with or without union and legal representation—to craft their version of events. Indeed, during the OPS case review, the Monitoring Team identified instances in which the subject officer and witness officer provided written submissions that contained identical or nearly identical narratives.³⁷

³⁷ For example, consider these two statements submitted by officers accused of drug theft:

[Officer 1:] I observed a white female later identified as (_____) enter a black Audi, which is known to the officer for selling narcotics and engage in a quick hand to hand transaction with the driver of the vehicle. She immediately exited the vehicle and began to walk towards her residence. . . .”

[Officer 2:] Officers had observed a white female later identified as (_____) enter a black Audi that is known by officers for selling narcotics and engaged in what officers believe was a quick hand to hand transaction. Ms. _____ immediately exited the vehicle and began to walk towards her house.

Compounding the problem was the fact that the officers' written statement sometimes did not address specific allegations in the complaint. The omissions were neither cured by follow-up questions from the investigator, nor mentioned in the final investigative report. From a quality control perspective, the reliance on Form 1001 makes supervision and oversight nearly impossible, as there is no way to identify gaps and make meaningful recommendations for improvement through training.

Major police departments have largely abandoned the practice of using a written form to obtain a statement from officers who are the subject of an internal affairs investigation. The reasons are readily apparent: Written statements deny investigators the ability to obtain candid, spontaneous responses, the ability to gauge the officer's demeanor, and the opportunity to ask follow-up questions in real time. NPD has acknowledged the value of recorded interviews, but has at times claimed a lack of resources had justified the practice. Although the time investment is undoubtedly real, it is also necessary to ensure that Internal Affairs investigations are thorough, fair, and professional.

Following discussions with the Monitoring Team, NPD has agreed to abandon the practice of allowing officers to use Form 1001 rather than be subject to an in person interview. The Monitoring Team is pleased that NPD has adopted the recommendation that recorded interviews be the rule, rather than the exception – as recently expressed in an updated version of its newly revised *Complaint Intake and Investigation* policy that is still in draft form. The Monitoring Team anticipates the forthcoming Internal Affairs SOP Manual will address recorded interviews in more detail. The Monitoring Team will examine Internal Affairs/OPS files in the future to determine whether, or not, the IA/OPS unit is conducting in person interviews of police officers who are the subject of internal affairs complaints.

iii. *Application of the Preponderance of Evidence Standard*

The Monitoring Team's investigative file review revealed that OPS investigators engaged in inconsistent application of the preponderance of the evidence standard and failed to provide sufficient evidence to justify credibility determinations. The files suggested what appears to be a result-driven analysis in which, when investigators were faced with competing versions of events, they either (1) reflexively resolved such disputes in favor of the officer without evidentiary support, or (2) discounted non-law enforcement witness statements, based solely on minor inconsistencies. Overall, there was little effort to "resolve material inconsistencies in officers' and witnesses' statements" through follow-up questioning, independent investigation or consideration of circumstantial evidence. (*See* Consent Decree ¶ 129) On those occasions when an investigator made an adverse credibility determination against a complainant or a subject officer,³⁸ there was no explanation of why or identification of factors supporting the investigator's conclusion that the complainant or the officer was being untruthful.

These practices are inconsistent with best practices for a rigorous investigative process to citizens' complaints, or even fellow officer complaints, alleging misconduct. NPD should not presume a person alleging misconduct to be non-credible solely because s/he lacks a corroborating witness or a recording of the alleged incident. These practices will also undermine the public confidence in the internal affairs process. The vast majority of police/citizen interactions occur outside of public view. Complaint investigations may, in many instances, boil down to a case of one person's version of the facts against another's. Automatically resolving

³⁸ The Monitoring Team reviewed two case files where an adverse credibility determination was made against a subject officer resulting in a *Sustained* finding. In the first, the complainant was a non-NPD government official who alleged that the subject officer screamed obscenities because her car blocked his in a municipal parking lot. In the second, another non-NPD government official alleged that an officer refused to take a report for a witness in a domestic violence case. The subject officers in both cases submitted Forms 1001 denying the complainant's version of events.

these cases with *Not Sustained* findings does little to dispel the perception that the Internal Affairs system favors officers. Investigations must be fair and impartial. In instances where an investigator must make a credibility determination, he or she should not rely solely on the complainant's or the subject officer's competing versions of the facts. The investigator should use normal investigative techniques to determine the facts, such as follow-up questioning, independent investigation (*i.e.* contacting witnesses, obtaining video evidence, etc.) and evaluation of all circumstantial evidence relevant to the inquiry. The investigator also should document his or her investigative work to support whatever credibility determination that is reached.

iv. Workflow between NPD and ECPO

The Essex County Prosecutor's Office (ECPO) investigates and prosecutes all police criminal misconduct in Essex County, including misconduct by NPD officers. For the time period covered by the Monitoring Team's review, NPD policy required ECPO referral where (1) there was a firearms discharge, (2) a use of force resulting in serious injury or death occurred, or (3) a misconduct complaint alleged criminal conduct by an NPD member.

To assess both the quality and timeliness of administrative investigations conducted in conjunction with or at the conclusion of parallel criminal investigations, the Monitoring Team requested a sample of cases from 2015 through 2016, where, by virtue of the classification, there was a strong likelihood that the case had been referred to the ECPO. In addition to the investigative delays common in these cases (detailed above), the Monitoring Team observed that, other than a notice of ECPO's declination to prosecute, there is very little information provided to OPS when the case file is returned, and no explanation for ECPO's unwillingness to share a summary of its findings or description of which documents and whose testimony ECPO relied on in its decision-making. Even if ECPO has some yet unidentified

justification for holding onto evidence, notification to NPD is essential so that its investigators may pursue the evidence by other means, or seek any necessary consent from third parties.

The absence of documentation from ECPO is problematic because NPD has not zealously pursued administrative investigations after ECPO declines to prosecute.³⁹ For example, in one officer-involved shooting case (non-hit), there was substantial delay in the NPD investigation pending the ECPO inquiry. Once ECPO sent its declination to prosecute, NPD appears to have done essentially no investigation of its own, as the matter was closed one day after NPD received the ECPO files. While this particular case did include portions of the ECPO file which provided a basis for its declination, according to the ECPO report, an OPS investigator responded to the scene of the shooting, but apparently did not record any of his own observations from the scene, including his perceptions of the subject officer. In another case, an officer fired at, but missed a man who allegedly verbally accosted him and pointed a firearm. ECPO sent OPS its declination letter on June 8, 2017. OPS conducted no additional investigation and on July 17 reported the shooting was justified.

NPD should not rely on ECPO's declinations to justify its own "Not Sustained" findings. First, in pursuing criminal convictions, an ECPO prosecutor must prove the elements of a crime "beyond a reasonable doubt"—the highest standard of proof in American law. It applies only in criminal cases, not civil matters, and certainly not in police administrative

³⁹ In the force cases reviewed, OPS typically suspended all investigative work in firearms or use of force cases handled being handled by ECPO until receiving a declination letter from ECPO. Even after receiving a declination letter from ECPO, NPD rarely took further investigative action beyond collecting reports and reviewing the ECPO file. For the alleged criminal misconduct investigations under ECPO referral, NPD conducted complainant and civilian interviews, collected reports, and looked for video evidence while ECPO investigated the case. However, NPD typically failed to ask the officer subject to investigation or witness officers for statements, until ECPO's declination was issued. Once ECPO declined to pursue charges against the NPD officer, NPD would (1) ask officers to provide a written statement and (2) close the file out within a few weeks of receiving those statements - usually recommending a *Not Sustained* finding.

determinations. To prove a violation of NPD policy, OPS investigations are not required to meet the same demanding burden as the ECPO in a criminal case. Investigators must apply the proper standard of proof in an administrative investigation—“preponderance of evidence,”—not the more stringent standard of “beyond a reasonable doubt.” Thus, while evidence of an officer’s actions may not be sufficient to justify prosecution by ECPO, that same evidence may be enough to justify a determination by IA/OPS that the officer has violated a NPD policy provision. Additionally, the elements of crimes, which ECPO prosecutors must prove beyond a reasonable doubt to obtain a conviction, are different than the paragraphs of a NPD policy that need be proven by only a preponderance of the evidence to establish a policy violation. For example, while it is not a crime to be discourteous, disrespectful or unprofessional, it may be a violation of NPD’s Bias-Free Policing policy.⁴⁰

NPD must ensure that OPS investigators zealously pursue administrative investigations, even after ECPO declines to prosecute.

g. NPD’s Response to Complaints of Domestic Violence Involving Allegations Against Officers

The Monitoring Team used the case review to evaluate NPD’s investigation of incidents of alleged domestic violence involving NPD personnel. This interest arose from arrests of NPD officers for domestic abuse and similar offenses that have been the subject of recent media reports.⁴¹ Additionally, the Monitor took note of the 2014 investigation by the DOJ,

⁴⁰ See General Order: 17-06 - *Bias-Free Policing* Section IV.3.a.

⁴¹ See, e.g., Jessica Mazzola, *Newark Cop Arrested for 3rd Time in 2 Years*, https://www.nj.com/essex/index.ssf/2017/09/newark_cop_arrested_for_3rd_time_in_2_years.html; Noah Cohen, *Newark Cop Charged With Sexually Assaulting Woman on Police Property*, https://www.huffingtonpost.com/entry/newark-cop-kenneth-gaulette-accused-of-sexually-assaulting-woman-on-police-property_us_572a62a5e4b0bc9cb045a35f; Karen Yi, *Police Lt. Facing 2 Sex Harassment Claims Is ‘Confident’ He’ll Be Promoted, Lawyer Says*, https://www.nj.com/essex/index.ssf/2018/06/jose_pereira_newark_police_department_sexual_haras.html.

which identified as an “Area of Concern” NPD’s “ignorance or bias concerning victims of sexual assault,” which resulted in crucial investigative deficiencies.⁴² As discussed above, the Monitoring Team’s review revealed that victims of domestic violence at the hands of NPD officers faced significant hurdles to having their case properly investigated. This was especially true for those with limited English proficiency.

The preamble to NPD General Order No. 99-01, *Duties and Responsibilities in the Handling of Domestic Violence Incidents Involving Police Officers*, states:

[i]t is the policy of the Newark Police Department that violent domestic behavior will not be tolerated or excused and that the Department will undertake any or all actions bestowed upon it by law to afford domestic violence victims protection from physical violence by their offenders.

The Monitoring Team’s review revealed several shortcomings in NPD’s compliance with General Order 99-01, including (1) short-tempered 911 call-takers, (2) dispatchers withholding pertinent details, (3) unsympathetic officers applying their own discretionary enforcement standards, and (4) many “*Not Sustained*” findings in internal investigations of domestic violence incidents involving NPD personnel.

The Monitoring Team’s review of Internal Affairs investigations involving allegations of domestic violence brought into sharp focus several areas of concern, including an over-reliance on Form 1001 to collect officer accounts without follow-up questions.⁴³ Additionally, the Monitoring Team observed seemingly biased victim interviews, such as instances where the interviewer’s questions created a strong perception that the interviewer was

⁴² Investigation of the Newark Police Department, United States Department of Justice, Civil Rights Division and United States Attorney’s Office, District of New Jersey—Dated July 22, 2014, at p. 46-47.

⁴³ Form 1001 is a Newark Police Division Administrative Submission document used to collect written statements from subject officers.

unfairly acting against the witness or complainant. Investigations also disregarded circumstantial evidence.

In one case, a complainant alleged that her husband, a NPD officer, had threatened to kill her with his non-service weapon. When the complainant was granted a restraining order against the subject officer, investigators arrived at their home to retrieve the weapon. The subject officer informed investigators, both in-person and in a later Form 1001, that he lacked access to the weapon, despite it being stored in his home. Days later, investigators discovered the weapon next to a box of the subject officer's personal items. Stunningly, the investigation resulted in a *Not Sustained* finding. In this instance and others, the Monitoring Team observed an overall absence of investigative zeal with regard to domestic violence cases involving complaints against NPD officers.

NPD's ability to fully, fairly, and effectively investigate allegations of domestic violence against its officers will require first and foremost a culture change in the Internal Affairs/OPS unit. That culture change can be precipitated by (1) policy changes, (2) a procedural manual, (3) regular training regarding domestic violence and sexual assault allegations by persons knowledgeable in the area, (4) importantly, the hiring of non-sworn personnel with expertise in the dynamics of abusive relationships to serve as a liaison for victims, and as an advisor to OPS, and (5) a careful evaluation of IA/OPS's leadership.

6. Revised Policy: Internal Affairs Complaint Intake and Investigation

Section XI of the Consent Decree requires NPD and the City to establish policies and procedures for investigating allegations of officer misconduct. NPD did not finalize its revised policy on *Internal Affairs Complaint Intake and Investigation* during this review period (April 1, 2018 – June 30, 2018). NPD has, however, made significant progress toward that goal.

In connection with this revised *draft* policy, NPD's decision to abandon its practice of permitting officers who are the subject of an investigation to submit *written* statements in lieu of an *in-person interview* is a very good development.

Other aspects of revised Internal Affairs policy remain unsettled. One point of debate between the Parties (DOJ and the City/NPD) concerns the scope of Consent Decree Paragraph 128, which states that "NPD policy will require that investigators *consider patterns in officer behavior* based upon disciplinary history and other information in NPD's Early Warning System (EWS)." (emphasis added). NPD is concerned that consideration of such information could unfairly bias OPS investigators against subject officers. The Independent Monitor agreed that investigator bias should be avoided. But prior disciplinary cases and other data collected in NPD Early Warning System (that is in development), in some instances, may be relevant and may shed light upon a pending investigation. For example, a NPD officer's prior IA/OPS case may reflect evidence of (i) an officer's *modus operandi*, (ii) a pattern of misconduct, or (iii) establish his or her prior knowledge of the same or similar policy or performance standard currently under investigation such that the officer cannot claim a "mistake" to explain his or her conduct.

The Parties, with assistance from the Monitoring Team, will continue discussing whether or to what extent Paragraph 128's requirements should be addressed at the investigations level or in NPD's revised disciplinary matrix/policy. However, this issue needs to be resolved quickly so that the Internal Affairs/OPS policy can be finalized and implemented. Also, substantive training on the new internal affairs policy cannot be written and administered until the policy has been adopted by NPD.

The Monitoring Team also has discussed with the Parties the need to develop an Internal Affairs procedural manual outlining both (1) processes that are unique to OPS, such as integrity audits (Consent Decree ¶¶ 117-118, 124, & 150-151), and (2) detailed protocols for investigations, such as whether or when to allow complainants, subjects, or witnesses to view footage from body-worn cameras. The City reports that NPD is working with an independent consultant, which has been contracted by the U.S. Department of Justice to assist the NPD, to develop an Internal Affairs Investigators Training Course, along with an Internal Affairs Manual. The City has represented to the Monitoring Team that the consultant's draft training materials are under review with DOJ. The Monitoring Team has not yet received these draft training materials.

These and other deficiencies should be addressed in the forthcoming internal affairs procedural manual, the provisions of which will need to be reinforced through training of investigators, supervisors, and integrity control officers. The Monitoring Team looks forward to reporting on NPD's progress in the important area of internal affairs.

7. Institutional Change Regarding Career Paths of Detectives and Supervisors in NPD's Internal Affairs Unit

In the view of the Independent Monitoring Team, NPD will need to make important decisions about what institutional change is necessary for detectives and supervisors who work in the Internal Affairs Unit. NPD officers must know that their tenure with the Internal Affairs Unit can lead to promotion and other leadership opportunities in NPD. Internal Affairs must be viewed as a pathway to success – a unit where officers go to develop top-notch investigative skills, and then move on to positions, preferably supervisory and leadership positions, within precincts. Through their work in the Internal Affairs/OPS Unit, officers will have gained a heightened knowledge of NPD's policies and procedures, as well as best policing

practices. These officers can apply what they learned to other NPD units, especially those with younger officers in the several precincts. They also will serve as mentors to help NPD officers make better decisions. NPD must also ensure that Internal Affairs personnel do not face retaliation when entering the unit or re-integrating into precincts. These actions will begin to effectuate a cultural change and lasting, systematic improvement within NPD's Internal Affairs unit and the Division as a whole.

C. TRAINING

NPD is turning its attention to training its officers on changes reflected in the newly developed and revised policies. The following chart shows NPD's progress with Consent Decree trainings as of the date of filing this report.

Training	Status
Community-Oriented Policing	Administered to all applicable NPD officers.
Body-Worn and In-Car Cameras	All officers who are using cameras have been trained on NPD's camera policies.
Use of Force	Training materials have been completed. The Monitoring Team estimates that all applicable NPD officers will be trained by the end of February 2019.
Stop, Search, and Arrest	Training materials have been completed. The Monitoring Team estimates that all applicable NPD officers will be trained by March 31, 2019.
Bias-Free Policing	NPD has yet to retain a vendor to develop its training materials.
Internal Affairs	NPD is developing an internal affairs investigations procedural manual with the assistance of a vendor. It will need to develop training materials based on this manual.
Property and Evidence Management	NPD needs to develop a procedural manual reflecting Consent Decree-compliant practices.

The Monitoring Team remains concerned about the staffing level of the Newark Training Bureau. It appears that the number of full-time training staff is below what is required

to ensure that the quality training required by the Consent Decree is developed and implemented on a timely basis.

Additionally, NPD will have to retain an outside expert to develop, at minimum, its first generation (i) bias-free policing training, (ii) internal affairs, and (iii) property and evidence trainings, as well as (iv) procedural manuals, where applicable. These manuals will define how officers should perform their duties and may serve as the basis for training.

1. Use of Force

Section VIII of the Consent Decree requires NPD to develop and implement training: “directing that the use of force by NPD officers accords with the rights secured and protected by the Constitution and state and federal law.” During this reporting period, NPD and its third party expert on use of force training have made substantial progress on this task. Notably, they have, (i) met with Newark community members to collect comments on NPD’s draft training curriculum; (ii) reviewed NPD’s policies governing the use of force, the New Jersey Attorney General’s Guidelines, and other applicable New Jersey and federal law; and (iii) reviewed—and incorporated—real-world videos of proper and improper police exercise of force. Some of the videos have been taken from actual police incidents in other cities.

The Monitoring Team expects that NPD will provide a full draft of all training materials to DOJ and the Monitoring Team for review and approval during the Fall of 2018, and that NPD will begin administering training to its officers before the end of the year. The Monitoring Team suggests that NPD invite community members to observe early, live training sessions for the purpose of transparency, and to solicit feedback.

2. Stop, Search, and Arrest

Paragraph 43 of the Consent Decree requires NPD to provide all officers with at least 16 hours of training on stops, searches, and arrests, taught by a qualified legal instructor.

During this reporting period, NPD retained a former Essex County Assistant Prosecutor to serve as the instructor, and prior to the reporting period, on March 19, 2018, submitted its draft Stop, Search, and Arrest training materials to DOJ and the Monitoring Team. DOJ and the Monitoring Team subsequently provided NPD with multiple rounds of comments and revisions. As of the close of this reporting period, NPD was in the process of revising these training materials to address issues raised by the Monitoring Team and DOJ.

After the close of this reporting period, the Independent Monitor requested that the New Jersey Attorney General's Office detail several Assistant Attorneys General and Deputy Attorneys General to help NPD draft real-life scenarios based on New Jersey case law to improve the quality and efficacy of the training. The Attorney General's Office agreed to provide this assistance. The Monitoring Team appreciates the New Jersey Attorney General's Office's assistance to the City and NPD.

D. EXPANSION OF BODY-WORN AND IN-CAR CAMERA PROGRAM

On April 26, 2018, NPD hosted a community meeting to provide an overview of its new Body-Worn Camera and In-Car Camera policies. During the event, NPD conducted a hands-on demonstration of both types of cameras, allowing community members to interact with the technology, ask questions and better understand how officers will use them in the field. The event was well-received by community members in attendance.

During this reporting period, NPD expanded use of body-worn and in-car cameras to the First and Fourth Precincts. As of October 2018, NPD has equipped 427 body-worn cameras and 65 in-car cameras, representing full deployment in the First, Second, Fourth and Fifth Precincts, as well as to a number of officers who are not assigned to a specific Precinct.

Next, NPD will begin deploying cameras in the Third Precinct. The Monitoring Team commends NPD on its roll out of the body-worn and in-car camera program.

After this reporting period, NPD conducted an internal audit of its officers' use of body-worn and in-car cameras. The internal audit, conducted by NPD's CDPU, focused on Supervisor responsibilities to determine if NPD Supervisors conducting compliance checks were satisfying the requirements set forth in NPD's revised Body-Worn Camera and In-Car Camera policies. The internal audit identified areas of improvement and, where NPD deemed it necessary, it retrained officers on the requirements of the policies and proper function of the cameras. While the Independent Monitor has not, at this time, assessed the findings of NPD's internal audit, the Monitoring Team acknowledges NPD's proactive approach to ensuring officers' compliance with its revised policies.⁴⁴

Paragraph 11 of the Consent Decree requires NPD to train officers on any new or revised policy or procedure, including Body-Worn Camera and In-Car policies. During this reporting period NPD made substantial progress toward training officers on its revised policies. All personnel in the First, Second, Fourth and Fifth Precincts utilizing body-worn cameras and in-car cameras have received an 8-hour block of training on the policy and operational elements of the cameras and footage.

On June 8, SME Kevin Bethel, former Deputy Commissioner of the Philadelphia Police Department, conducted an audit of this training to ensure the presentation was consistent with the requirements in Paragraphs 11 and 103 of the Consent Decree and the learning objectives developed for the curriculum. The training, delivered by members of the NPD Training Division and the vendor, was an effective presentation of the materials, and the

⁴⁴ NPD's internal audit does not satisfy the Consent Decree requirement that the Monitor conduct audits of NPD's body-worn camera and in-car camera program. (See Consent Decree ¶ 173 and 174.)

approximately fifteen officers in attendance remained engaged throughout the session. The Monitoring Team commends NPD on the quality of its training in this area.

E. NPD DATA SYSTEMS

Under Section XIV of the Consent Decree, NPD is required to “develop, implement, and maintain contemporary records and management systems.” NPD is required to enhance its Early Warning System (“EWS”) and revise its use and analysis of a Records Management System (“RMS”). (*See* Consent Decree ¶¶ 156, 162.)

As discussed in the Second Year Reassessment, NPD’s data systems continue to contain critical deficiencies, and will require a comprehensive review, assessment, and improvements. NPD has retained an independent consultant to recommend changes during the previous quarter, and held a kick off meeting with the consultant in August 2018, after the close of this reporting period. The consultant has provided a detailed work plan to be completed within four months, and will begin the process by meeting with NPD Supervisors, officers and other personnel who actually will use the data systems, to gain an understanding of NPD’s current systems.

Ultimately, the consultant will identify the gaps between where NPD’s IT systems stand today and the requirements of the Consent Decree, and will develop an IT roadmap that will guide NPD in its efforts to become a data-driven police department that uses modern IT and meets the standards of modern data-driven policing. The ultimate goal is for NPD to gain the ability to produce and publish regularly updated data and analyses to enable data-driven management of the NPD.

F. INABILITY TO REVIEW NPD’S STOPS AND ARRESTS

As noted in the Monitoring Team’s Second Quarterly Report, in May 2017, the Monitoring Team requested that NPD provide: (i) Field Inquiry Reports, (ii) Consent to Search

Forms, (iii) Arrest Reports, (iv) Tour Assignment Sheets, and (v) Incident Reports for the period from May 1, 2017 through May 31, 2017. The Monitoring Team intended to use this data to conduct an assessment of whether NPD officers are (a) properly reporting stop, search and arrest activity; (b) articulating reasonable suspicion for stops; and (c) documenting probable cause for an arrest by the end of their shifts.

NPD has neither developed a report format to collect data on all investigatory stops and searches, nor complied with the Monitoring Team's request for data necessary to conduct an audit. The Monitoring Team understands that NPD is currently developing a revised form to capture the data required by the Consent Decree. Once the form is complete, NPD will still lack the capacity to export and produce this data from its data systems. NPD intends to wait until it receives the results from its data consultant's review, discussed above, to respond to this audit request. Until NPD has both developed an acceptable form and is able to export data efficiently, the Monitoring Team's efforts to conduct audits in this area will be put on hold.

G. INDEPENDENT MONITORING TEAM'S COMMUNITY EVENTS

Paragraph 186 of the Consent Decree requires the Monitor to hold community meetings to discuss the quarterly reports, inform the public about the implementation process, and hear community perspectives of police interactions. As part of this outreach, the Monitor holds periodic community fora in different locations throughout Newark to discuss the City's and NPD's progress with achieving the Consent Decree's requirements, the Monitor's Quarterly Reports, and the Monitoring Team's work.

The Monitoring Team released its Fourth Quarterly Report on May 4, 2018, and subsequently held a community forum on June 25, 2018 at the Training, Recreation and Education Center. NJISJ coordinated this event, which was attended by approximately 30

community members, as well as members of the Monitoring Team, NPD, and DOJ. The Monitor will continue to update the community on the Parties' progress implementing the Consent Decree.

IV. SEVENTH QUARTER ACTIVITIES (JULY 1, 2018 – SEPTEMBER 30, 2018)

A. POLICY DEVELOPMENT AND TRAINING

NPD is nearing completion of the policy development stage of the Consent Decree. Training of NPD personnel on a particular policy cannot begin until that particular policy has been written and adopted by NPD. After adoption of the policy, NPD will write the scenario-based training that will incorporate key provisions of the policy and the applicable federal and state law.

B. AUDITS

The Monitoring Team intends to audit NPD's police practices *after* NPD has (i) adopted a new or revised policy and (ii) trained its officers on the new or revised policy. The combination of new or revised policy, training, and supervision—in other words, the Consent Decree's reforms—are the specific measures that should lead to changes in officer behavior. The Monitoring Team believes it would be premature to audit NPD's compliance in a particular area (*i.e.*, stop, search, arrest, bias-free policing) *before* NPD has adopted the policy and implemented the training to all necessary personnel. As such, the Monitoring Team does not expect the audit process to begin earlier than mid-2019, except for areas such as body-worn cameras and in-car cameras, as those policies have been both written and adopted, and the officers who use that technology have been trained.

The Monitoring Team looks forward to working with the Parties during the next reporting period.

V. APPENDICES

A. Chronology of Key Events

B. Compliance Chart

Appendix A

Timeline (Meetings, Milestones and Events)**Monitoring Team's Sixth Quarterly Report — April 1, 2018 through June 30, 2018.**

Date	Event
Recurring	Weekly meeting with Monitoring Team Liaison and NPD CDPU.
April 4, 2018	NPD hosts city-wide community meeting to seek feedback for NPD's Community-Oriented Policing policy.
April 16, 2018	Director Ambrose issues memorandum (No. 18-231) requiring the Office of Professional Standards to provide quarterly summaries of publicly available Internal Affairs data to the Office of the Public Safety Director to be forwarded for review to the CCRB.
April 25, 2018	NPD hosts city-wide community meeting to seek feedback for NPD's Stop policy.
April 26, 2018	NPD hosts demonstration of body-worn and in-car cameras.
May 2, 2018	NPD hosts city-wide community meeting to seek feedback for NPD's Search policy.
May 4, 2018	The Monitoring Team files its Fourth Quarterly Report with the United States District Court for the District of New Jersey, and publishes it on the Monitoring Team's website.
May 9, 2018	NPD hosts city-wide community meeting to seek feedback for NPD's Arrest policy.
May 10, 2018	The Monitoring Team files its Second Year Monitoring Plan with the United States District Court for the District of New Jersey, and publishes it on the Monitoring Team's website.
May 21, 2018	NPD hosts meeting with stakeholders from Newark's Lesbian Gay Bisexual and Transgender community.
May 29, 2018	NPD hosts meeting with community leaders to discuss Stop, Search, and Arrest training.
May 30, 2018	NPD hosts meeting with community leaders to discuss Use of Force training.
June 5, 2018	NPD hosts meeting with community members to discuss the Consent Decree.

Date	
June 25, 2018	The Monitoring Team, led by NJISJ, holds a “Meet the Monitor” event at the Training Recreation Education Center to speak with Newark community members about the Consent Decree and discuss the Monitor’s Fourth Quarterly Report.
June 28, 2018	The Monitoring Team files its Fifth Quarterly Report with the United States District Court for the District of New Jersey, and publishes it on the Monitoring Team’s website.

Appendix B

**Consent Decree Compliance and Implementation
(through June 30, 2018)**

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I. DEFINITIONS

NPD's compliance with the deadlines set forth in the Consent Decree and the Second-Year Monitoring Plan will be assessed using the following categories: (1) not assessed, (2) initial development, (3) preliminary compliance, (4) operational compliance, (5) non-compliance, (6) administrative compliance, and (7) full compliance. Each of these terms is defined below.

1. Not Assessed

"Not Assessed" means that the Monitoring Team did not assess the Consent Decree provision during this reporting period. Acceptable reasons for why a requirement was not assessed may include that the deadline has not passed or some other substantive reason.

2. Initial Development

"Initial Development" means that during the auditing period, NPD has taken meaningful steps toward achieving compliance with a Consent Decree requirement that is not yet scheduled for completion. Initial Development will be noted only if NPD's efforts are consistent with established timeframes in the Monitoring Plan or Consent Decree. Where NPD was expected to have achieved at least Initial Development during the auditing period, and has not, NPD has been found not to be in compliance.

3. Preliminary Compliance

"Preliminary Compliance" means that during the reporting period, NPD has developed, and the Independent Monitor, DOJ, and City have approved, respective policies or standard operating procedures ("SOPs") and related training materials that are consistent with a Consent Decree requirement. This category only applies to SOPs and training.

4. Operational Compliance

“Operational Compliance” means that NPD has satisfied a Consent Decree requirement by demonstrating routine adherence to the requirement in its day-to-day operations or by meeting the established deadline for a task or deliverable that is specifically required by the Consent Decree or Monitoring Plan. NPD’s compliance efforts must be verified by reviews of data systems, observations from the Monitoring Team, and other methods that will corroborate its achievement. In this report, the Monitoring Team only will assess NPD for compliance with established deadlines.

5. Non-Compliance

“Non-Compliance” means that NPD has either made no progress towards accomplishing compliance, or has not progressed beyond Initial Development at the point in time when NPD is expected to have at least achieved Preliminary Compliance for the reporting period.

6. Administrative Compliance

“Administrative Compliance” means that during the auditing period, NPD has completed all necessary actions to implement a Consent Decree requirement, but General Compliance has not yet been demonstrated in NPD’s day-to-day operations.

7. Full Compliance

“Full Compliance” means that all Monitor reviews have determined that NPD has maintained Operational Compliance for the two-year period.

II. USE OF FORCE

Achievement	Deadline for Achievement	Status	Discussion
Develop Use of Force Policy: NPD will develop and implement a use of force policy or set of policies that cover all force techniques, technologies, and weapons that are available to NPD officers. The policy or policies will clearly define each force option and specify that unreasonable use of force will subject officers to discipline. (§§ 66-74)			
NPD will review and revise its current use of force policy or policies to ensure compliance with Consent Decree.	March 31, 2018	Preliminary Compliance	See Sixth Quarterly Report, Section III(A)(1).
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the policy or procedure and that the topic is incorporated into the in-service training required. (§ 11)	Within 60 days after approval of policy	Initial Development	See Sixth Quarterly Report, Section III(A)(1)
NPD will provide drafts of new or revised training plans or training curricula to the Monitor and DOJ for review and approval prior to implementation. (§ 11)	Within 60 days after approval of policy	Preliminary Compliance	See Sixth Quarterly Report, Section III(B)(1).
NPD will develop a protocol to gauge retention of training and approve testing mechanisms to ensure compliance with Consent Decree.	45 days before training is implemented	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will provide the proposed testing for review.	30 days before training is implemented	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
Monitor, DOJ and City will provide NPD with feedback on proposed testing.	15 days before training is implemented	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.

USE OF FORCE Continued

Achievement	Deadline for Achievement	Status	Discussion
Audit of NPD Firearms Certification Oversight (§§ 70-71, 74)			
NPD will provide resources for officers to maintain proper weapons certifications and will implement sanctions for officers who fail to do so. Officers will be prohibited from using unauthorized weapons or ammunition. (§§ 70-71, 74)	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
NPD will establish a Serious Force Investigation Team (“SFIT”) to review Serious Force Incidents, conduct criminal and administrative investigations of Serious Force incidents, and determine whether incidents raise policy, training, tactical, or equipment concerns. Lower or intermediate force incidents will be investigated by line supervisors. (§§ 78-84, 86-94)			
NPD will create and implement (1) a General Order establishing the AFIT to ensure sufficient staffing consistent with § 92 of the Consent Decree; and (2) General Orders establishing line supervisors’ responsibilities to investigate lower and intermediate use of force incidents.	March 31, 2018	Preliminary Compliance	See Sixth Quarterly Report, Section III(A)(1).
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the policy or procedure and that the topic is incorporated into the in-service training required. (§ 11)	Within 60 days after approval of General Orders	Initial Development	See Sixth Quarterly Report, Section III(A)(1)
NPD will provide drafts of new or revised training plans or training curricula related to the requirements of the Consent Decree to the Monitor and DOJ for review and approval prior to implementation. (§ 11)	Within 60 days after approval of General Orders	Preliminary Compliance	See Sixth Quarterly Report, Section III(B)(1).

USE OF FORCE Continued

Achievement	Deadline for Achievement	Status	Discussion
NPD will maintain a Use of Force Review Board (“UFRB”) to conduct timely, comprehensive and reliable reviews of all Intermediate and Serious Force incidents, in accordance with the requirements set forth in the Consent Decree. (§§ 88, 95, 96, 98, 102)			
NPD will create a General Order establishing the UFRB, ensure that it is staffed consistent with Consent Decree provisions, and ensure that the responsibilities assigned are consistent with Consent Decree provisions.	March 31, 2018	Preliminary Compliance	See Sixth Quarterly Report, Section III(A)(1).
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the policy or procedure and that the topic is incorporated into the in-service training required, which will provide the UFRB with 8 hours of training. (§§ 11, 97)	Within 60 days after approval of General Order	Initial Development	See Sixth Quarterly Report, Section III(A)(1)
NPD will provide drafts of new or revised training plans or training curricula related to the requirements of the Consent Decree to the Monitor and DOJ for review and approval prior to implementation. (§ 11)	Within 60 days after approval of General Order	Preliminary Compliance	See Sixth Quarterly Report, Section III(B)(1).
NPD’s UFRB will conduct timely, comprehensive, and reliable reviews of SFIT and Intermediate Force incidents and document its findings and recommendations. (§§ 13, 96-101)	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
NPD will provide Monitor with Use of Force data for a baseline assessment.			
NPD will provide the Monitor with Use of Force data, including, but not limited to, field inquiry reports and incident reports.	June 30, 2018	Non-Compliance	See Sixth Quarterly Report, Section III(E).

III. STOP, SEARCH AND ARREST

Achievement	Deadline for Achievement	Status	Discussion
NPD will revise policies in accordance with ¶¶ 25-42, 55-62 of the Consent Decree.			
NPD will begin training modules for the revised policies upon the Monitor and DOJ's approval of the revised policies.			
NPD will review and revise its current stop, search, and arrest policy or policies to ensure compliance with Consent Decree.	March 31, 2018	Preliminary Compliance	See Sixth Quarterly Report, Section III(A)(2).
NPD will provide drafts of new or revised training plans or training curricula related to the requirements of the Consent Decree to the Monitor and DOJ for review and approval prior to implementation. (¶ 11)	Within 60 days after approval of policy	Initial Development	See Sixth Quarterly Report, Section III(B)(2).
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the stop, search, and arrest policies or procedure and that the topic is incorporated into the in-service training required. (¶ 11)	Within 60 days after approval of policy	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will develop a protocol to gauge retention of stop, search, and arrest training and approve testing mechanisms to ensure compliance with Consent Decree.	45 days before training is implemented	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will provide the proposed testing to the Monitor, DOJ and the City for review.	30 days before training is implemented	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
Monitor, DOJ and the City will provide NPD with feedback on proposed testing.	15 days before training is implemented	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a

STOP, SEARCH AND ARREST Continued

Achievement	Deadline for Achievement	Status	Discussion
			future report.
Data Report: NPD will issue a report summarizing and analyzing the data collected on its stops, searches, arrests, and uses of force. The report will also set forth the steps taken by the NPD to correct problems and build successes indicated by the data. (¶ 168)			
NPD will provide a draft report to Monitor and Parties.	May 15, 2018	Non-Compliance	See Sixth Quarterly Report, Section III(F)(1).
NPD will finalize the report based on feedback from the Monitor and Parties.	June 30, 2018	Non-Compliance	See Sixth Quarterly Report, Section III(F)(1).
NPD will provide periodic reports to Monitor and Parties.	Yearly after June 30, 2018	Non-Compliance	See Sixth Quarterly Report, Section III(F)(1).
NPD supervisors to take appropriate action to address violations or deficiencies in stops, detentions, searches, and arrests; maintain records; and identify repeat violators. (¶ 48)	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
NPD supervisors will take appropriate action to address any violations or deficiencies related to stops, detentions, searches, and arrests; maintain records; and identify repeat violators. (¶ 48)			
NPD supervisors to take appropriate action to address violations or deficiencies in stops, detentions, searches, and arrests; maintain records; and identify repeat violators. (¶ 48)	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.

IV. COMMUNITY POLICING AND BIAS-FREE POLICING

Achievement	Deadline for Achievement	Status	Discussion
Community-Oriented Policing Policy: NPD will integrate concepts of community and problem-oriented policing into its policies. (Section V)			
NPD will review and revise its current community policing policy or policies to ensure compliance with Consent Decree.	May 15, 2018	Non-Compliance	See Sixth Quarterly Report, Section III(A)(3).
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the policy or procedure and that the topic is incorporated into the in-service training required. (§ 11)	Within 60 days after approval of policy	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will provide drafts of new or revised training plans or training curricula to the Monitor and DOJ for review and approval prior to implementation. (§ 11)	Within 60 days after approval of policy	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will develop a protocol to gauge retention of training and approve testing mechanisms to ensure compliance with the Consent Decree.	45 days before training is implemented	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will provide the proposed testing for review.	30 days before training is implemented	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
Monitor, DOJ and City will provide NPD with feedback on proposed testing.	15 days before training is implemented	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a

COMMUNITY POLICING AND BIAS-FREE POLICING Continued

			future report.
Evaluation of Community Policing Protocol: By February 7, 2017, NPD will implement a protocol to periodically measure the breadth, extent, and effectiveness of its community partnerships and problem-solving strategies, including officer outreach, particularly outreach to youth.			
NPD will submit first drafts of its measurement mechanisms to the Monitor and DOJ for review.	March 31, 2018	Non-Compliance	See Sixth Quarterly Report, Section III(D)(1).
NPD will submit a final draft of the measurement protocol.	May 5, 2018	Non-Compliance	See Sixth Quarterly Report, Section III(D)(1).
NPD will begin implementing the measurement protocol.	May 10, 2018	Non-Compliance	See Sixth Quarterly Report, Section III(D)(1).
NPD will prepare a publicly available report of its community policing efforts overall and in each precinct. (¶ 18)	April 30, 2018	Initial Development	See Sixth Quarterly Report, Section III(D)(1).
Phase I: Community Policing: NPD will provide its officers training on the benefits and means to achieve effective community engagement. (¶ 14)			
NPD will provide 8 hours of in-service training on community policing and problem-oriented policing methods and skills for all officers, including supervisors, managers and executives. (¶ 14)	Within 60 days after approval of policy	Operational Compliance	Sixth Quarterly Report, Section III(B)(3).
Bias-Free Policing Policy: NPD will revise policies in accordance with ¶ 64 of the Consent Decree.			
NPD will provide drafts of new or revised training curricula to the Monitor and DOJ for review and approval prior to implementation. (¶ 11)	Within 60 days after approval of policy	Non-Compliance	See Sixth Quarterly Report, Section III(B)(3).

COMMUNITY POLICING AND BIAS-FREE POLICING Continued

NPD will develop a protocol to gauge retention of training and approve testing mechanisms to ensure compliance with the Consent Decree.	45 days before training is implemented	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will provide the proposed testing for review.	30 days before training is implemented	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
Monitor, DOJ and City will provide NPD with feedback on proposed testing.	15 days before training is implemented	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will develop a protocol to gauge retention of training and approve testing mechanisms to ensure compliance with the Consent Decree.	45 days before training is implemented	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.

V. PROPERTY AND EVIDENCE MANAGEMENT

Achievement	Deadline for Achievement	Status	Discussion
Implement Chain of Custody and Inventory Policy: The NPD will ensure that in all instances where property or evidence is seized, the responsible officer will immediately complete an incident report documenting a complete and accurate inventory of the property or evidence seized, and will submit the property or evidence seized to the property room before the end of tour of duty. (§§ 105, 110)			
NPD will create a chain of custody and inventory policy or policies to ensure compliance with § 110 of the Consent Decree.	May 1, 2018	Non-Compliance	See Sixth Quarterly Report, Section III(A)(4).
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the policies or procedures and that the topic is incorporated into the in-service training required. (§ 11)	Within 60 days after approval of policies	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will provide drafts of new or revised training plans or training curricula related to the requirements of the Consent Decree to the Monitor and DOJ for review and approval prior to implementation. (§ 11)	Within 60 days after approval of policies	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
Transfer of NPD officers: To the extent permitted by law and NPD's collective bargaining agreements, NPD officers identified as having a sustained complaint of theft, or two not sustained or unfounded complaints of theft occurring within one year, will be moved out of positions where those officers have access to money, property, and evidence. (§ 108)			
City legal department to review legal requirements and collective bargaining agreements regarding transfer of NPD officers consistent with § 108 of the Consent Decree.	Ongoing	Initial Development	See First Quarterly Report, Section V(C)(6).

VI. INTERNAL AFFAIRS: COMPLAINT INTAKE AND INVESTIGATION

Achievement	Deadline for Achievement	Status	Discussion
Transparent Complaint Process: NPD will revise its policies to prohibit practices that discourage complainants and witnesses from coming forward, including the requirements set forth in ¶ 115.			
NPD will review and revise its policies for releasing complaints and misconduct allegations to make such complaints and allegations publicly available and ensure compliance with the Consent Decree.	March 31, 2018	Non-Compliance	See Sixth Quarterly Report, Section III(A)(5).
NPD will provide drafts of new or revised training plans or training curricula the Monitor and DOJ for review and approval prior to implementation. (¶ 11)	Within 60 days after approval of policy	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the Internal Affairs: Complaint Intake and Investigation policy or procedure and that the topic is incorporated into the in-service training required.	Within 60 days after approval of policy	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will take appropriate disciplinary actions against officers/employees who refuse to accept or discourage the filing of misconduct complaints, fail to report misconduct or complaints, or provide false or misleading information about filing a misconduct complaint, as set forth in ¶¶ 117-118.	Ongoing	Non-Compliance	See Sixth Quarterly Report, Section III(F)(2)(a).
NPD will create a training curriculum and/or training bulletins for police personnel, including dispatchers, to properly handle complaint intake, including how to provide complaint materials and information; the consequences for failing to take complaints; and strategies for turning the complaint process into positive police-civilian interaction. (¶ 116)			

INTERNAL AFFAIRS: COMPLAINT INTAKE AND INVESTIGATION Continued

Achievement	Deadline for Achievement	Status	Discussion
NPD will provide drafts of new or revised training curricula to the Monitor and DOJ for review and approval prior to implementation. (¶ 11)	Within 60 days after approval of policy	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the Internal Affairs: Complaint Intake and Investigation policy or procedure and that the topic is incorporated into the in-service training required.	Within 60 days after approval of policy	Not Assessed	The policy was not approved this quarter. The Monitor will assess this requirement in a future report.
NPD and City, in collaboration with the civilian oversight entity or other community input, will develop and implement a program to publicize to the Newark Community how to make police misconduct complaints. (¶ 112)			
NPD and the City will revise and make forms and other materials outlining the complaint process and OPS contact information available on their website and appropriate government properties. (¶ 113)	June 1, 2018	Initial Development	See Fifth Quarterly Report, Section III(C)(4).
NPD will accept all complaints, by all methods and forms detailed in ¶ 114.	Ongoing	Initial Development	See Fifth Quarterly Report, Section III(C)(4).
NPD will provide civilians, including complainants and witnesses to alleged police misconduct, with full access to NPD's complaint process. (¶ 115)	Ongoing	Initial Development	See Fifth Quarterly Report, Section III(C)(4).
NPD Misconduct Reporting and Investigation Process: NPD will require that all officers and employees report allegations of criminal behavior or administrative misconduct by another NPD officer toward a member of the public, that they may observe themselves or receive from another source, to a supervisor or directly to OPS for review and investigation. When a supervisor receives such allegations, the supervisor will promptly document and report this information to OPS. (¶ 119)			
NPD will investigate as a misconduct complaint any information or	Ongoing	Not Assessed	The Monitor will assess

INTERNAL AFFAIRS: COMPLAINT INTAKE AND INVESTIGATION Continued

Achievement	Deadline for Achievement	Status	Discussion
testimony arising in criminal prosecutions or civil lawsuits that indicate potential officer misconduct not previously investigated by NPD. (§ 120)			this requirement during compliance audits.
Complaint Classification Protocol: NPD will adopt a complaint classification protocol that is based on the nature of the alleged misconduct, in order to guide OPS in determining where a complaint should be assigned for investigation. (§ 121)			
NPD will implement complaint classification protocol to ensure compliance with the Consent Decree.	March 31, 2018	Preliminary Compliance	See Fifth Quarterly Report, Section III(A)(5).
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the protocol or procedure and that the topic is incorporated into the in-service training required.	Within 60 days after approval of protocol	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD will provide drafts of new or revised training plans or training curricula to the Monitor and DOJ for review and approval prior to implementation. (§ 11)	Within 60 days after approval of protocol	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.
NPD's OPS will investigate all allegations of Serious Misconduct as defined in the Consent Decree. (§§ 122)	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
NPD's OPS will routinely monitor investigations referred to officers' precincts and specialized units for quality, objectivity and thoroughness, and take appropriate action if investigations are deficient. OPS will also identify trends in investigative or leadership deficiencies. (§ 124)	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
NPD will maintain a centralized numbering and tracking system for all misconduct complaints. (§ 125)			
NPD will create a protocol to link an "event" number retrieved from the CAD, which enables NPD to provide a complainant with	May 31, 2018	Initial Development	See Fifth Quarterly Report, Section

INTERNAL AFFAIRS: COMPLAINT INTAKE AND INVESTIGATION Continued

Achievement	Deadline for Achievement	Status	Discussion
an identifying number in real time.			III(C)(4).
NPD will use a case management system to ensure appropriate caseloads for OPS investigators and timely completion of investigations. (§ 146)			
NPD will use a case management system to track and maintain appropriate caseloads for OPS investigators and promote the timely completion of investigations by OPS. (§ 146)	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
NPD will require and provide appropriate training for OPS investigators upon their assignment to OPS, with refresher training at periodic intervals. At a minimum, NPD will provide 40 hours of initial training and eight hours additional in-service training on an annual basis. (§§ 147-148)			
NPD will review and revise its current OPS policy to require training of OPS investigators.	March 31, 2018	Non-Compliance	See Sixth Quarterly Report, Section III(A)(5).
NPD will provide drafts of new or revised training curricula to the Monitor and DOJ for review and approval prior to implementation. (§ 11)	Within 60 days after approval of policy	Not Assessed	The deadline has not passed. The Monitor will assess this requirement in a future report.

VII. IN-CAR CAMERAS AND BODY-WORN CAMERAS

Achievement	Deadline for Achievement	Status	Discussion
In consultation with the DOJ and Monitor, NPD will develop a policy regarding footage and audio recordings from its in-car and body-worn cameras and a policy to designate which cars and officers will not be equipped with cameras or will be equipped with concealed cameras. (§§ 103-104)			
NPD will review and revise its current policy or policies to ensure compliance with the Consent Decree.	March 31, 2018	Preliminary Compliance	See Sixth Quarterly Report, Section III(A)(7).
NPD will provide drafts of new or revised training plans or training curricula to the Monitor and DOJ for review and approval prior to implementation. (§ 11)	Within 60 days after approval of policy	Preliminary Compliance	See Sixth Quarterly Report, Section III(B)(7).
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the Body-Worn Cameras and In-Car Cameras policies and that the topic is incorporated into the in-service training required. (§ 11)	Within 60 days after approval of the policy	Preliminary Compliance	See Sixth Quarterly Report, Section III(B)(7).
NPD will begin the work required to equip all marked patrol cars with video cameras and require all officers, except those set forth in §§ 103-104, to wear body cameras and microphones with which to record enforcement activity. (§ 103)			
NPD will conduct pilot program on body-worn cameras and develop recommendations for possible device implementation based on the results of the pilot.	Ongoing	Initial Development	See Sixth Quarterly Report, Section III(A)(7).

VIII. GENERAL OFFICER TRAINING

Achievement	Deadline for Achievement	Status	Discussion
<p>NPD will provide officers at least 40 hours of training to address changes in the law, or issues identified in complaints, or other means. NPD will provide additional training as necessary to address changes in the law, or issues identified through its review of use of force incidents, arrest reports, misconduct complaints, or other means. All training will be consistent with and incorporate current law, professional police standards and best practices. (§§ 9, 14)</p> <p>Note: The timelines for training requirements in other Sections of the Consent Decree (e.g., use of force, bias-free policing), are located in those Sections of this Chart.</p>			
NPD will review and revise its current General Orders to ensure compliance with the Consent Decree.	June 30, 2018		The status for training requirements for each Consent Decree area (e.g., use of force, bias-free policing), are located in those sections of this Chart.
NPD will ensure that officers have received, read and understand their responsibilities pursuant to the policies or procedures and that the topic is incorporated into the in-service training required. (§ 11)	Within 60 days after approval of individual policies		The status for training requirements for each Consent Decree area (e.g., use of force, bias-free policing), are located in those sections of this Chart.
NPD will provide drafts of new or revised training plans or training curricula to the Monitor and DOJ for review and approval prior to implementation. (§ 11)	Within 60 days after approval of individual policies		The status for training requirements for each Consent Decree area (e.g., use of force, bias-free policing), are located in those sections of this

GENERAL OFFICER TRAINING Continued

Achievement	Deadline for Achievement	Status	Discussion
			Chart.
NPD will compile, and provide Monitor with, all current State and NPD curricula and course materials for new recruits.	March 31, 2018	Non-Compliance	See Sixth Quarterly Report, Section III(B)(8).
NPD and Monitor will identify where State/NPD curricula differ from the Consent Decree.	April 24, 2018	Non-Compliance	See Sixth Quarterly Report, Section III(B)(8).
NPD will maintain complete and consistent training records for all officers. (§ 12)			
NPD will develop a protocol to gauge retention of training and approve testing mechanisms to ensure compliance with Consent Decree.	45 days before training is implemented		The status for training requirements for each Consent Decree area (e.g., use of force, bias-free policing), are located in those sections of this Chart.
NPD will implement any necessary updates to its data storage system to retain training records as set forth in the protocol.	Ongoing	Not Assessed	The Monitor will assess this requirement during compliance audits.
NPD will provide the necessary data to allow the Monitoring Team to conduct a baseline assessment of NPD's training records.	March 31, 2018	Non-Compliance	See Sixth Quarterly Report, Section III(B)(8).

IX. COMMUNITY ENGAGEMENT

NPD will assess and revise its staffing allocation and personnel deployment to support community policing and problem-solving initiatives, and will modify deployment strategies that are incompatible with community policing, such assessment and modified strategy to be provided to the DOJ and Monitor for approval. (§ 15)			
NPD will conduct review of its current staffing allocation and personnel deployment and develop a community policing strategy that involves all officers assigned to policing precincts, including the Community Policing Officers.	March 31, 2018	Non-Compliance	See Sixth Quarterly Report, Section III(C)(2).
NPD will review and revise its current staffing allocation and personnel protocol to ensure compliance with the Consent Decree.	March 31, 2018	Non-Compliance	See Fifth Quarterly Report, Section III(C)(2).
NPD will identify what changes in personnel allocation will be made, if necessary, based on the staffing study.	April 30, 2018	Non-Compliance	See Sixth Quarterly Report, Section III(C)(2).

X. DATA SYSTEMS IMPROVEMENTS: EARLY WARNING AND RECORDS MANAGEMENT SYSTEMS

Achievement	Deadline for Achievement	Status	Discussion
Assessment of Current Data Systems: NPD will provide the Monitor with sample data to analyze its current data collection processes and NPD will engage a consulting firm to determine its data needs.			
NPD will provide sample data to the Monitor in each subject area where data collection/analysis is required so the Monitor can determine NPD data collection abilities (<i>i.e.</i> , “data baseline”).	June 30, 2018	Initial Development	See Sixth Quarterly Report, Section E.